UNITED NATIONS

General Assembly

FORTY-EIGHTH SESSION

Official Records

SIXTH COMMITTEE
9th meeting
held on
Tuesday, 11 October 1994
at 3 p.m.
New York

SUMMARY RECORD OF THE 9th MEETING

Chairman: Mr. LAMPTEY (Ghana)

CONTENTS

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of the publication* to the Chief of the Official Records Editing Section, room DC2-794, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/49/SR.9
1 December 1994
ENGLISH
ORIGINAL: FRENCH

/...

94-81562 (E)

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/49/33)

1. Mr. PRANDLER (Hungary) welcomed the fact that a consensus had been reached with regard to the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security; a number of elements should be taken into account when the General Assembly considered the draft for adoption.

2. First, while it was true that the provisions of Chapter VIII of the Charter of the United Nations constituted the legal framework for cooperation between the United Nations and regional arrangements or agencies, it had never been possible in recent decades for those provisions to be implemented fully because of the cold war. For that reason, at a time when the United Nations was overstretched in the areas of preventive diplomacy, peacemaking and peace-keeping, regional arrangements and agencies should be more actively involved in dealing with conflicts at an early stage and endeavouring to settle them at the regional level.

3. Secondly, it should be stressed that the efforts of regional arrangements and agencies were by nature complementary to the activities of the United Nations and could in no way prejudice the competence of the Security Council under Chapters VI, VII and VIII of the Charter.

4. Thirdly, his delegation wished to single out the importance of active participation by regional intergovernmental organizations in the maintenance of international peace and security. Hungary was honoured to host the forthcoming Review Conference and Summit Meeting of the Conference on Security and Cooperation in Europe (CSCE). His country hoped that those meetings would contribute significantly to the efforts to establish a democratic and integrated Europe where rationalism would prevail over nationalism.

5. Because of its geographical proximity to the former Yugoslavia, Hungary was particularly interested in the question of assistance to third States affected by the application of sanctions under Chapter VII. Hungary had scrupulously complied with its obligations and applied all the mandatory sanctions. However, it was clear that mere consultations with the Security Council under Article 50 of the Charter did not offer an adequate solution to countries which had suffered losses as a result of the implementation of various sanctions regimes. A more general approach to the application of Article 50 should be worked out. The Hungarian delegation was ready to consider any new proposals which might bridge the gap between opposing views. The solution did not necessarily lie in the creation of new institutions or mechanisms; his delegation supported the recommendation of the Special Committee on the Charter and on the Strengthening of the Role of the Organization that the Secretary-General should be invited to

submit a report on the question of the implementation of the provisions of the Charter, including Article 50. In his delegation's view, that report should not be a simple "catalogue" of issues discussed in the Special Committee and elsewhere, but should also propose specific modalities for applying the relevant provisions of the Charter.

6. The Hungarian delegation supported the adoption of the proposed United Nations Model Rules for the Conciliation of Disputes between States. It believed that those parts of the draft which remained in square brackets could be finalized without too much difficulty at the next session of the Special Committee. The real difficulty was not the wording, but the political will of the States concerned - in other words, whether they were ready to apply the provisions in question or those of any other instrument. In that connection, it was worthwhile to recall that there were many other instruments in the field of the peaceful settlement of disputes, containing a plethora of rules and provisions. As the fiftieth anniversary of the Organization approached, it was high time for all Member States to utilize and apply those provisions.

7. His delegation had listened with great interest to the statement made by the representative of Poland, especially the proposal to delete the "enemy-States" clauses from the Charter. His delegation, as it had already stated at the forty-eighth session of the General Assembly, believed that the clauses in question should be deleted, and associated itself with those delegations which had proposed that the question should be considered by the Special Committee at its 1995 session.

8. With regard to the future work of the Special Committee, while his delegation agreed that the Special Committee's achievements were rather modest, it wished to stress that, mediocre as they might be, the results of the Special Committee's work should be viewed as positive, given that such work had been carried out against the backdrop of the cold war and hostility between blocs. There were grounds for optimism with regard to the continuation of the work of the Special Committee, the need for which, as the representative of France had pointed out, was being confirmed at a time when the Organization's tasks were constantly increasing.

9. Mr. MWANGI (Kenya) welcomed the adoption by the Special Committee of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security. That was a major breakthrough which reflected the political will of Member States to view regional bodies as essential components, not only of economic and political integration, but also of conflict resolution. It could only strengthen the role of regional bodies in the maintenance of international peace and security under the overall responsibility of the Security Council.

10. The international community was beginning slowly to overcome its oversensitivity with regard to the fundamental principles of sovereignty and non-interference in the internal affairs of States, thus enabling the United Nations to address different types of conflicts in a pragmatic way. The recent

efforts of the Organization of African Unity (OAU) to settle conflicts considered to be of a domestic nature and therefore outside the competence of regional bodies were a clear indication of that organization's changing perceptions of the issue. Now that the principles which should guide cooperation between the United Nations and regional arrangements or agencies had been set down on paper, it was time to put them into practice. To that end, there was a need to strengthen the capacities of regional organizations, taking into account the diversity of situations in the world and respecting the wishes of States which had freely acceded to regional arrangements. He noted with satisfaction that the draft declaration, as formulated, afforded the flexibility required for the sharing of responsibility between the United Nations and regional bodies.

11. The question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII was complex, as attested by the divergent views which had been expressed during the consideration of the working paper on the subject. While there was a need to stress the primary responsibility of the Security Council for imposing economic and trade sanctions in order to punish anyone who threatened international peace and security, target such sanctions to those whom they were intended to punish and lift them speedily whenever conditions so warranted, practical ways and means must be found to avoid unnecessary suffering by third States which applied such sanctions. However, the Kenyan delegation believed that the question should be considered on a case-by-case basis, and that measures aimed at meeting requests under Article 50 should be set in motion soon after the imposition of sanctions. In particular, there was a need to work out clear criteria for determining the nature and scope of the negative impact of such sanctions in order to address the problem objectively. Objections had been raised to the idea of a special trust fund on the ground that such a fund might raise false hopes and be detrimental to a sanctions regime in the long run. It was also true that no conditions could be placed on the fulfilment of the obligation imposed by the Security Council under Chapter VII of the Charter. On the other hand, the failure to address legitimate requests for assistance under Article 50 could undermine the effectiveness of sanctions.

12. The Kenyan delegation hoped that work on the proposed United Nations Model Rules for the Conciliation of Disputes between States, to which it attached great importance, would be completed at the Special Committee's next session.

13. With regard to the future role and agenda of the Special Committee, his delegation believed that the Special Committee should devote one or two days at its next session to the discussion of specific proposals concerning its future work, including the review of its membership and the length of its session.

14. Mr. SHAH (Nepal) said that a consensus had emerged on the need to restructure the United Nations in order to enhance its efficiency, particularly in the field of the maintenance of international peace and security. A start should be made by reviewing the membership and working procedures of the Security Council. In that context, Nepal strongly supported an increase in the

membership of the Council. Such an increase should be based on the democratic principle of equitable geographical distribution. It must be recognized that all countries of the world - large and small, rich and poor, powerful and weak - could contribute to the work of the Council. It was equally important for such work to be more transparent. Lastly, the relationship between the General Assembly and the Security Council should be enhanced in accordance with the relevant provisions of the Charter of the United Nations.

15. The report of the Secretary-General entitled "An Agenda for Peace" (A/47/277-S/24111) constituted a radical departure from earlier practices in the field of the maintenance of international peace and security. While supporting the proposals which that report contained, Nepal believed that it would be illusory to expect them to be implemented unless the report was supplemented by its corollary, "An Agenda for Development". In his delegation's view, those two agendas were interrelated and mutually reinforcing. Most problems in the contemporary world were of socio-economic origin. Without a firm global commitment to address those issues, neither peace nor development could be achieved.

16. The question of cooperation between the United Nations and regional organizations was one of the most important issues being discussed by the Special Committee. The Nepalese delegation expressed appreciation to the delegation of the Russian Federation for submitting a draft declaration on the subject which it viewed as a significant step forward in implementing the long-neglected provisions of Chapter VIII of the Charter. There was a need to develop a cooperation mechanism for encouraging the regional efforts which complemented global initiatives to maintain international peace and security. However, such efforts must be guided by the purposes and principles of the Charter, international law and the principle of non-interference.

17. With regard to the question of assistance to third States affected by the application of sanctions under Chapter VII, Nepal, in view of the seriousness and urgency of the problem, supported the establishment of a special trust fund which would help to alleviate the adverse consequences of economic sanctions for third States.

18. As the principal means of ensuring international peace and security remained the peaceful settlement of disputes, Nepal had consistently advocated the idea that the provisions of Chapter VII should be applied only as a last resort. His delegation supported in principle the proposals contained in the draft United Nations Model Rules for the Conciliation of Disputes between States.

19. Mr. ZHANG Kening (China) said that the draft declaration on the enhancement cooperation between the United Nations and regional arrangements or agencies in maintaining international peace and security (A/AC.182/L.72/Rev.2) prepared by the Special Committee had several distinctive features: firstly, it stressed that the cooperation between the United Nations and regional arrangements or agencies should be conducted under Chapter VIII of the Charter, taking into

account the different functions and roles of various regional arrangements or agencies, and provided relatively systematic and flexible rules on the content of such cooperation and the approach it should take; secondly, it incorporated current international practices (preventive diplomacy, peace-keeping, etc.) and took their development into consideration; and, thirdly, it kept in sight the differing interests of States and therefore constituted a balanced text. For all those reasons the Chinese delegation hoped that the General Assembly would adopt the draft declaration at its present session.

20. The draft United Nations Model Rules for the Conciliation of Disputes between States (A/AC.182/L.75/Rev.1), submitted by Guatemala, represented an improvement on the original proposal but remained too specific and lacking in flexibility. In particular, the text failed to meet the expectations of a large number of States with respect to the free choice of conciliators by the States concerned and the conciliation procedures as such. Conciliation was meant to offer a flexible dispute settlement procedure. States had recourse to conciliation because it allowed them to take the initiative in the settlement of disputes. The Chinese delegation hoped therefore that the Special Committee would give the draft text further consideration at its next session so as to take into account the needs of the majority of States, while ensuring that the conciliation roles were flexible and effective in settling international disputes.

21. With regard to the question of assistance to third States affected by sanctions under Chapter VII of the Charter, the Chinese delegation endorsed the idea of establishing concrete mechanisms for the effective implementation of Article 50 of the Charter in view of the increasing imposition of sanctions by the Security Council and hence the increasing number of third States affected by them. China was not in favour of using sanctions as a major means of resolving international disputes and advocated extreme caution in that regard. As a State affected by sanctions under Chapter VII of the Charter, it believed that the United Nations should adopt practical and effective measures within the framework of the Charter to help States overcome the special economic difficulties and the losses resulting from the imposition of sanctions

22. Mr. SRIWIDJAJA (Indonesia) said that there was no doubt that the United Nations was the most appropriate forum for ensuring the maintenance of international peace and security and for the peaceful settlement of disputes. Indonesia welcomed therefore the growing support for the attempts to reform the Organization with a view to securing equal participation and a more balanced representation of States in keeping with the purposes and principles of the Charter.

23. In that connection it had become imperative to restructure and reform the Security Council in the light of the profound changes which had taken place on the interactional scene. The Indonesian delegation supported in particular the proposal to increase the number of permanent members of the Council, not only on the basis of the principle of geographical representation but also in the light of the political, economic and demographic realities. The time had also come to

conduct a constructive review of the right of veto with the aim of securing greater democratization and transparency in the work of United Nations bodies.

24. The draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security rightly emphasized the importance of regional approaches in the maintenance of international peace and security. There was indeed a growing realization among States that a concerted approach to the problems of their respective regions and the expansion of their realms of activity would help not only to ease regional conflicts but also make the search for regional and global peace more democratic. Such exercises in cooperation could be carried out in the economic, social and cultural fields and help to build confidence and thus international security as well.

25. Nevertheless, despite the vital importance of regional arrangements or agencies for global détente and genuine peace, their efforts could only supplement and not supplant the efforts made by the United Nations in meeting its primary responsibility for collective security. Some recent experiences attested to the need for the Organization and regional associations to coordinate their efforts. Thought should be given to procedures and modalities which would strengthen the links between them.

26. The question of the economic difficulties resulting from the application of sanctions under Chapter VII of the Charter warranted priority consideration. It was clear that under Article 50 Member States confronted with economic problems as a result of the imposition of sanctions had a right to consult the Security Council about solving such problems. Since the Charter did not provide any mechanism for resolving the issue effectively, the working paper on implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter constituted a good basis for the discussion. Indonesia hoped that at its next session the Special Committee would take a comprehensive approach to the issue in order to mitigate the negative impact of the economic dislocation caused by the imposition of sanctions.

27. The draft United Nations model rules for the conciliation of disputes between States submitted by Guatemala also warranted further study, as did the proposal of the Sierra Leone delegation on the establishment of a mechanism offering its services, on its own initiative or on request, in the early stages of a dispute. All measures designed to strengthen the principle of the peaceful settlement of disputes merited consideration and support.

28. Mr. NGO QUANG XUAN (Viet Nam) said that the Vietnamese delegation supported every effort to strengthen the role of the United Nations with a view to making the Organization into a universal forum which would be truly effective in maintaining peace and security and international cooperation. It was therefore in favour of the idea of enlarging the membership of the Security Council to take due account of the interests of the developing countries in accordance with the principle of the equality of Member States. Furthermore, the mandates of

the various United Nations organs and the functional relationships between them must be not only preserved but also strengthened. The balance between the Security Council, the General Assembly and the Secretary-General must reflect the changes in the contemporary world and its realities, and the role assigned to the General Assembly - the most representative body - must be further enhanced. Viet Nam also supported the proposal that the Secretary-General should be authorized to request advisory opinions from the International Court of Justice.

29. The working paper entitled "Strengthening of the role of the Organization and enhancement of its efficiency", submitted by the Cuban delegation, also represented an important contribution to the efforts to democratize the Security Council and revitalize the work of the General Assembly, bearing in mind the functions entrusted to it under Chapter IV of the Charter in the area of the maintenance of peace and security.

30. Because the Security Council was applying sanctions with greater frequency and States were growing increasingly interdependent economically, there was an even more pressing need to examine the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third parties affected by the application of sanctions under Chapter VII of the Charter. There was no doubt that the Security Council's increasingly frequent use of sanctions was giving rise to serious economic and social consequences for third States. In accordance with Article 50 of the Charter, such States had the right to consult the Council with regard to a solution of the problems arising from the imposition of sanctions. The right to consult, rather than being an end in itself, was clearly meant to achieve tangible, solid results. The time had come to develop a mechanism which would give more practical expression to the provisions of Article 50. The establishment of a trust fund to assist financially third States affected by the imposition of sanctions under Chapter VII was therefore a necessary and rational step. While the Charter made no particular reference to such a fund, it did not prohibit establishing a fund or taking measures if the circumstances so demanded. Moreover, the establishment of a trust fund had been endorsed by the General Assembly in its resolution 47/120 B.

31. The establishment of a permanent mechanism for consultation between the Security Council and Member States which were most likely to be affected by the application of sanctions was also important to bear in mind. While fully aware that establishing such a mechanism pursuant to Article 49 and 50 of the Charter was a difficult and time-consuming task, his delegation was confident that with the common will of the international community such an undertaking could be carried out successfully.

32. The Charter of the United Nations devoted an entire chapter (Chapter VIII) to regional arrangements or agencies in which it set forth the basic principles governing their activities and established the legal framework for cooperation between regional agencies or arrangements and the United Nations in the area of the maintenance of international peace and security. His delegation therefore

supported the proposal to enhance cooperation between the United Nations and those regional entities based on the purposes and principles of the Charter, including the principles of respect for the sovereignty and equality of States and non-interference in their internal affairs.

33. True to the principle of the peaceful settlement of disputes, his delegation welcomed the proposed United Nations model rules for the conciliation of disputes between States.

34. Mr. TÜRK (Slovenia) said that he welcomed the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security, which presented in a systematic manner a number of ideas pertaining to cooperation between the United Nations and regional entities which had been discussed in various contexts in recent years. The nature of such cooperation varied, however, because regional agencies and arrangements had different mandates. The draft declaration envisaged various areas of cooperation, including fact-finding, preventive diplomacy, maintenance and re-establishment of peace, and post-conflict peace-building.

35. It was clear that non-military activities of regional arrangements or agencies were the natural focus for such cooperation. In fact, the Committee's experience and work seemed to indicate that there was need for more emphasis on preventive diplomacy and on rapid intervention to settle international disputes or deal with situations which might lead to international friction or disagreements. It would therefore be desirable to devise methods to promote developments in that direction. In that connection, a handbook containing guidelines for cooperation between the United Nations and regional arrangements or agencies would be particularly useful. It might also be helpful to establish a repertory of practice in the field of cooperation between the United Nations and regional organizations.

36. With regard to the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, his delegation felt that if all Member States were bound to enforce such sanctions by contributing to United Nations efforts, they were entitled to have that contribution recognized and, in exceptional cases, to expect help in alleviating the most severe economic effects of the application of sanctions.

37. At the same time, Slovenia failed to see how a comprehensive system to compensate for all the negative effects of sanctions, applied under Chapter VII, could be set up. A case-by-case approach seemed more realistic. Appropriate attention should be accorded to the process of taking the decisions leading to the imposition of sanctions. It was only logical to consider carefully the negative effects of sanctions on third States before taking decisions in that regard and to incorporate economic impact assessments into the decision-making process. Such an assessment would also help to identify areas where special compensatory mechanisms might be necessary.

38. His delegation was convinced that, once finalized, the proposed United Nations model rules for the conciliation of disputes between States, submitted by Guatemala, and the proposal to establish a dispute settlement service offering or responding with its services early in disputes, submitted by Sierra Leone, would contribute to efforts towards the peaceful settlement of disputes; and it hoped that Member States would make use of them.

39. The time had come for the Committee to consider proposing necessary changes in the Charter itself. In that connection, his delegation shared the view of many Member States that it was time to remove from the Charter any reference to "enemy States". It welcomed the Polish delegation's proposal in that regard and was prepared to participate in its consideration.

40. The question of the composition of the Committee itself needed to be addressed. His delegation endorsed the suggestion that the Committee should become open-ended; that would provide an appropriate framework for the consideration of various questions related to the interpretation, application and, as needed, revision of the Charter.

41. Mr. HAFNER (Austria) noted with satisfaction that growing emphasis had been put on the distribution of work and enhanced cooperation among global international organizations and regional organizations, not only in technical matters, but also with regard to peace and security. It would be helpful to institutionalize contacts between the various United Nations bodies and the institutions of the Conference on Security and Cooperation in Europe (CSCE) in Vienna.

42. While acknowledging the need to formulate conciliation rules for disputes between States, his delegation maintained that peaceful settlement of disputes would depend first and foremost on the willingness of States to resort to one or another of the many existing procedures. With specific reference to the proposal submitted by Guatemala (A/49/33, para. 107), the effort to achieve a simplification, which could only encourage States to apply that instrument, would justify the deletion of paragraph 2 of article 2, which simply confirmed a right that already existed, and of article 7, the content of which was repeated in article 20.

43. Concerning the actual purpose of conciliation, there were two schools of thought: one gave priority to a recommendation of the conciliation commission, based on law, justice and equity, whereas the other obliged the commission to find a solution acceptable to both parties. The proposed text favoured neither the one nor the other school of thought and added a redundant reference to the "facts and circumstances of the case" (article 8). The conciliation commission should of course base its recommendations on law, equity and justice but should also strive to propose a solution acceptable to the two parties, which would have the advantage of protecting the weaker party and contributing to the settlement of the dispute itself.

44. The formulation of article 12 should be clearer and should oblige the parties to provide the commission with all the documents it deemed necessary for the accomplishment of its duty.

45. Ms. YAW (Guyana) said that her country had by tradition always been partial to the principle of the peaceful settlement of disputes between States, and acknowledged the spirit of accommodation displayed by Guatemala in agreeing to incorporate in its proposed Model Rules (A/49/33, para. 107) suggestions which gave a prominent place to the concept of consent between States and which were in keeping with Article 33 of the Charter.

46. Any form of cooperation in the maintenance of international peace and security which might be established between the Organization and regional arrangements or agencies must be linked to Article 24 of the Charter, under the terms of which it was the United Nations, acting through the Security Council mandated for that purpose by the General Assembly - in other words, the Members of the United Nations - which had "primary responsibility for the maintenance of international peace and security". There could be no question of the Organization divesting itself of that primary responsibility by virtue of the fact that a conflict was localized in a geographical region or confined in its military scope. Further elucidation was thus needed of the concept of "local disputes" referred to in paragraph 3 of Article 52 of the Charter.

47. At a time when the United Nations was being called upon to play an ever more important role in restoring global peace and security, there seemed to be an emerging tendency, seen recently in Haiti and Rwanda, to place the main burden of peace-keeping efforts on the States of the region in which the conflict existed. That trend, the geopolitical logic of which was attractive, should in no case allow it to be forgotten - and Article 53 of the Charter was clear on that point - that it was the United Nations, not the regional arrangements or agencies, that had primary responsibility for the maintenance of international peace and security.

48. The fact that the international community was increasingly resorting to measures taken under Article 41 of the Charter, which did not involve the use of armed force called for creative solutions to redress the adverse effect of sanctions on countries against which they were not directed, which, furthermore, might be countries whose economies were primarily based on the commodities that were the subject of the sanctions. Any solution would have to take account of the need to fund assistance to third States disadvantaged in that way.

49. As the Organization looked towards its fiftieth anniversary, and in view of the arguments that had emerged in other forums in favour of new arrangements intended to bring about improvements in the various organs of the Organization, the question that should be pondered was whether the strengthening of the role of the Organization could be achieved without any amendment to the provisions of the Charter.

50. Mr. SANDOVAL (Paraguay) considered that the maintenance of international peace and security could not but benefit from close yet flexible cooperation between the United Nations and the regional organizations with a view to implementation of the provisions and mechanisms described in "An Agenda for Peace". The positive role that could be played by close relations and exchanges of information with the regional organizations, particularly with a view to early detection of conflicts, should not, however, allow one to lose sight of the fact that primary responsibility for the maintenance of international peace and security fell to the Security Council.

51. His delegation favoured a more representative allocation of the seats on the Security Council, in view of the increase in the number of Member States, and the need to democratize its structure and functioning.

52. With the increase in the number of cases of imposition of sanctions by the Security Council, and in the number of third States affected by those sanctions, there was an urgent need to consider the question of implementation of Article 50 of the Charter. That concern was addressed in document A/AC.182/L.79, of which Paraguay was a sponsor. Whether it was decided to set up a trust fund, to have recourse to the existing international financial institutions, to non-governmental organizations or to bilateral assistance, the key point was to agree on specific measures making it possible to assist States affected by the sanctions. A solution encompassing all aspects of the question would help to achieve consensus on the matter.

53. With regard to the peaceful settlement of disputes between States, his delegation welcomed the proposed United Nations Model Rules for the Conciliation of Disputes Between States and the proposed amendments thereto, and considered that the greatest advantage offered by the rules was their flexibility, which would make it possible to adapt them to specific cases. His delegation also welcomed the proposal submitted by Sierra Leone, entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" (A/48/398, annex).

54. His delegation supported the proposal by Poland that the expression "enemy State" should be deleted from Articles 53 and 107 of the Charter, thereby bringing the international democratic vocabulary up to date.

55. Mr. ENAYAT (Islamic Republic of Iran) considered that assistance to third countries affected by the application of sanctions imposed pursuant to Chapter VII of the Charter of the United Nations posed an important and urgent problem, and that the recommendations to be submitted to the General Assembly should be based on a concern to secure justice and peace among nations. In that regard, recourse to international economic and financial organizations, although described as promising by some, might lead to differing, unequal and sometimes even unjust outcomes. Nevertheless, the proposals contained in document A/AC.182/L.79 were a good starting point for a more thorough examination, which should also take into consideration General Assembly resolution 47/120, entitled

"An Agenda for Peace: preventive diplomacy and related matters" and, in particular, its section IV, "Confidence-building measures".

56. The draft declaration on the improvement of cooperation between the United Nations and regional arrangements and agencies in the maintenance of international peace and security (A/AC.182/L.72/Rev.2), considered in paragraphs 83 to 100 of document A/49/33, seemed welcome to his delegation, in so far as it subordinated the taking of coercive measures to authorization by the United Nations pursuant to the relevant provisions of the Charter.

The meeting rose at 5.05 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

SIXTH COMMITTEE
10th meeting
held on
Wednesday, 12 October 1994
at 10 a.m.
New York

SUMMARY RECORD OF THE 10th MEETING

Chairman: Mr. LAMPTEY (Ghana)

later: Mr. MADEJ (Poland)
(Vice-Chairman)

CONTENTS

AGENDA ITEM 157: QUESTION OF CRITERIA FOR THE GRANTING OF OBSERVER STATUS IN THE GENERAL ASSEMBLY (continued)

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of the publication* to the Chief of the Official Records Editing Section, room DC2-794, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/49/SR.10
19 October 1994

ORIGINAL: ENGLISH

94-81586 (E)

The meeting was called to order at 10.30 a.m.

AGENDA ITEM 157: QUESTION OF CRITERIA FOR THE GRANTING OF OBSERVER STATUS IN THE GENERAL ASSEMBLY (continued) (A/49/231)

1. Mr. MWANGI (Kenya) said that, except in a few exceptional political cases and in the case of the International Committee of the Red Cross (ICRC), observer status had in the past been granted only to non-member States and intergovernmental organizations. The request by ICRC had been viewed as exceptional, in view of the special status conferred on it by international law under the four Geneva Conventions as well as the universal recognition by States of its special international character. One hundred and thirty-eight countries had sponsored the ICRC resolution, and it had been noted at the time that that action was not to be seen as a precedent.

2. The General Assembly had also granted observer status to the Sovereign Military Order of Malta, adopting without a vote a resolution sponsored by 71 countries. Some countries, however, had dissociated themselves from the consensus and had called for the elaboration of clear criteria to determine what entities merited the granting of observer status. Other applications for such status were currently pending, and many other worthy and well established non-governmental organizations would no doubt soon be requesting the same treatment.

3. Such a situation must not be allowed to arise. The General Assembly was a principal organ of the United Nations made up of the entire membership, and observer status therein must be limited to non-member States and intergovernmental organizations. The granting of observer status to non-governmental organizations on the basis of their involvement in international humanitarian or environmental affairs would only further erode the dignity of the Assembly and dilute its effectiveness. The most appropriate way to address those concerns was by setting firm criteria governing the granting of observer status, having regard to the provisions of Article 71 of the Charter; and his delegation supported the proposal that the question should be considered in a working group of the Sixth Committee as a matter of urgency.

4. Ms. WILMSHURST (United Kingdom) said that agenda item 157 concerned an issue long overdue for consideration. Had it been considered two or three years previously, the General Assembly might have been spared the difficulties it had recently experienced with regard to the question of observer status.

5. The granting to organizations of observer status in the General Assembly was not governed by any express provisions of the Charter, and the General Assembly had thus created its own practice. While the observer status of the specialized agencies was regulated by agreements with the United Nations, the status of other intergovernmental organizations was dealt with through individual ad hoc resolutions of the General Assembly. Until very recently, and leaving aside national liberation movements, those ad hoc resolutions had covered only intergovernmental organizations; non-governmental organizations had had their own special arrangements, particularly with regard to their

relationship with the Economic and Social Council under Article 71 of the Charter.

6. In 1990 the General Assembly had made an exception to its general practice by granting observer status to ICRC. It had been made clear in the debate that that proposal would not be considered as in any way a precedent for similar future requests, and it had been stressed that ICRC had a special, indeed unique, role in the light of the mandates conferred upon it by the Geneva Conventions.

7. At its forty-eighth session the General Assembly had granted observer status to another non-governmental entity: the Sovereign Military Order of Malta. While recording the view of the United Kingdom that that decision again should not be regarded as a precedent, her delegation had been aware of the strong support that had existed for the granting of observer status to that body.

8. At the current session the General Assembly had before it an application for observer status from the International Federation of Red Cross and Red Crescent Societies. Her delegation had made known its view that that application should have been considered not in isolation but in relation to the whole question of observer status for non-governmental organizations. It had accepted, however, that that procedure would not now be adopted.

9. Agenda item 157 provided an opportunity to consider the whole question as a matter of principle, without reference to any particular organization. In her delegation's view, the issues were: (i) should the General Assembly revert to its previous practice and decide that, regardless of the exceptions made in recent years, non-governmental entities should not be accorded observer status? Or (ii) should it try to rationalize its recent practice by drawing up criteria encompassing the kinds of entities to which observer status had recently been granted, but excluding other entities? Or (iii) should it decide to be more liberal in the granting of observer status? If so, criteria would still need to be established.

10. The preliminary view of her delegation was that, having regard to considerations of resources, time and space, the General Assembly should simply revert to its old practice, and should refrain from according observer status to other non-governmental entities. It might also be possible to consider establishing other categories of observers. As to the question of procedure, her delegation would be prepared to join any consensus that emerged in favour of establishing a working group.

11. Mr. LEGAL (France) began by endorsing the remarks made by the representative of Kenya. Experience showed that when the General Assembly was called upon to consider requests for observer status on a case-by-case basis, it was likely to attach more importance to the merits of the organization concerned than to the smooth running of the United Nations organs or the actual utility to the requesting organization of the observer status conferred upon it.

12. The growing tendency for non-governmental organizations to request observer status in the General Assembly must be halted. While non-governmental organizations made an important contribution to the work of the United Nations in many areas, it was not their role to influence the decisions of a political organ whose members represented their Governments, which were themselves responsible to the citizens of their respective countries. Non-governmental organizations were not bound by any such representative mandate; and it was thus not desirable to give them a capacity to influence delegations. One adverse consequence of such an influence might be a geographical imbalance. Furthermore, admission of a few non-governmental organizations might lead to a flood of applications for observer status from rival organizations.

13. Firm criteria must thus be established. In the past, the practice had been to reserve observer status for governmental or intergovernmental bodies. His delegation was ready to join with other delegations in an attempt to define the precise content and scope of that notion. Currently, non-governmental organizations could enjoy consultative status with the Economic and Social Council under Article 71 of the Charter. In his delegation's view, that arrangement functioned satisfactorily. He endorsed the proposal by the United States representative to set up a working group to consider the question of criteria, and expressed his delegation's confidence that within that framework wisdom would prevail, and that Member States would confirm the practice hitherto followed, by reserving the granting of observer status in the General Assembly to governmental or intergovernmental bodies.

14. Mr. HAFNER (Austria) said that agenda item 157 had a far-reaching impact on the fundamental principles governing the work of the United Nations, namely, efficiency, universality and the all-encompassing scope of its tasks. Thus far, observer status had been reserved for States that had not yet become members of the United Nations, for other subjects of international law such as intergovernmental organizations, or for entities which had to accomplish tasks having a direct bearing on the basic work of the United Nations. The General Assembly had shown some reluctance to grant observer status to non-governmental organizations. In his delegation's view, it had been right to judge each application on its individual merits, since it was impossible to find common criteria applicable to all non-governmental organizations.

15. Observer status implied that the entity in question was considered able to contribute to the general work of the United Nations, to the broader application of the standards and rules emerging from it, and to their effective implementation. The granting of observer status further reflected the view of the General Assembly that the entity was considered directly affected by the basic work of the United Nations carried out through the General Assembly, in particular in the field of international peace and security. Thus far, States, international intergovernmental organizations of a universal or regional nature, or similar agencies of the sort referred to in Chapter VIII of the Charter of the United Nations, were considered sufficiently qualified by their nature to meet the requirements of observer status.

16. As to non-governmental organizations, it must be borne in mind that Article 71 of the Charter and Economic and Social Council resolution 1296 (XLV)

provided for the possibility of granting consultative status to such organizations. That status had proved to be a very useful device to bridge the gap between those organizations and the United Nations. It followed, however, that entities applying for observer status must have a relation to and possible impact on the work of the United Nations which went far beyond what was entailed in consultative status and which could not be accommodated by that status.

17. Since the Charter of the United Nations was silent on the question of which entities should obtain observer status, one could rely only on more or less clearly defined established practice. Efforts must thus be made to draw up a list of firm criteria to serve as a basis for future decisions on the question. In view of the difficulties of establishing such a list, his delegation favoured the United States proposal that a working group should be established to deal with the problem.

18. Mr. HALFF (Netherlands) said that the General Assembly was being confronted by more and more requests for observer status. While some of those requests were legitimate and concerned organizations which would not only profit from such status, but would also contribute to the work of the United Nations, most of the requests had been granted without much debate and without a thorough examination of the value of such status for the United Nations. The time had come to apply certain criteria when granting observer status.

19. His delegation was of the view that, in future, any organization requesting observer status should meet the following criteria: (a) it should be an international organization of which only States could be members; (b) it should have a clear legal structure; and (c) observer status should be of value not only to the organization but also to the United Nations. Lastly, his delegation was in favour of the establishment of a working group that would ultimately draft a set of criteria to be adopted by the Sixth Committee.

20. Mrs. DASCALOPOULOU-LIVADA (Greece) said that it was a sign of their appreciation of the work of the General Assembly that more and more organizations were expressing an interest in acquiring observer status. However, it was obvious that the over-liberal granting of such status would have an adverse effect on the work of the General Assembly. There was thus an urgent need to establish criteria striking a proper balance between the benefits to be derived from their participation and the dangers that might result from excessive participation. Her delegation believed that the basic principle underlying the criteria adopted should, as in the past, be that the organization accorded such status should be a subject of international law. The matter should be discussed further in the context of a working group set up for that purpose.

21. Mr. ROGACHEV (Russian Federation) said that in the past it had been the practice to grant observer status in the General Assembly only to States that were not yet members of the United Nations and to intergovernmental organizations. Non-governmental organizations had the possibility of acquiring consultative status with the Economic and Social Council. Since 1990, however, there had been a growing trend among non-governmental organizations to seek observer status in the General Assembly, and in two instances, exceptions had

been made to the established practice. The General Assembly now had before it a third application for such status. While his delegation did not wish to call into question the merits of the organization concerned, it was seriously concerned that what had begun as an exception would soon become the rule. In such circumstances, the General Assembly would be physically impeded from carrying out its work properly, unless restrictions of procedure on participation by observers were written into its rules. His delegation thus supported the proposal by the United States representative to establish a working group to scrutinize all aspects of the question.

22. Mr. VAN DE CRAEN (Belgium) said that his country welcomed the growing interest shown by organizations in the work of the General Assembly and was in principle ready to welcome all those that wished to contribute to it. Nevertheless, it was clear that indiscriminate granting of observer status in the General Assembly would impede its work and would therefore not be in the interest of the Organization. It was thus essential to establish clear and universally accepted criteria governing the granting of such status, while at the same time continuing to guarantee the coherence and effectiveness of its work. Those criteria must be based on the fundamental principles of the Charter and must reflect the aims of the Organization.

23. As Article 4 of the Charter clearly stated, the United Nations was first and foremost an organization of States. Consequently, membership of the General Assembly was reserved for States. One of the main reasons for according observer status had been to take account of the needs of all States, and to ensure that non-member States also had an opportunity to participate in the work of the General Assembly. Observer status had also been granted to intergovernmental, regional or other organizations, again with a view to facilitating their close cooperation with the United Nations. Their presence as observers unquestionably enriched the work of the Assembly.

24. On the relationship between the non-governmental organizations and the General Assembly, account had to be taken of Article 71 of the Charter and Economic and Social Council resolution 1296 (XLV). The division of labour between the General Assembly and the Council established in those texts avoided duplication of work, and must in no circumstances be changed without careful scrutiny of all the implications. That did not necessarily rule out some form of participation by non-governmental organizations with consultative status in certain aspects of the work of the General Assembly. An ad hoc working group would provide the best framework in which to study all aspects of the question of criteria for the granting of observer status.

25. Mr. MARTENS (Germany) said that since the granting of observer status to ICRC in 1990 - a decision based on its unique legal standing deriving from its mandate under the Geneva Conventions, which effectively conferred on it the role of a guardian of international humanitarian law - an increasing number of non-governmental organizations had shown an interest in acquiring observer status. His delegation was pleased to note that interest.

26. The conferring of observer status in the General Assembly should be governed by fundamental principles based on the Charter and reflecting the

structure of the Organization. However as was clearly stated in Article 4 of the Charter, the United Nations was, and would remain, an organization of States. Consequently, membership of the General Assembly was restricted to States. Granting of the status of observer in the General Assembly to non-member States was the result of the principle of universality enshrined in Articles 2 (6) and 35 (2) of the Charter. The main purpose of conferring observer status on non-member States had been to enable them actively to participate in and contribute to the decision-making of the General Assembly. It had been intended that the transitory status of some non-member States seeking admission, and of some national liberation movements, should be alleviated by the granting of such status.

27. Since the early days of the United Nations, observer status had also been conferred on intergovernmental organizations, including the regional arrangements referred to in Chapter VIII of the Charter. Their status reflected their importance to the international community as a whole, and was also the result of their vital contribution to international peace and security. Observer status was not a means in itself, but served the purpose of a functioning United Nations system. Observer status must thus be seen in the light of the contribution made by an observer to the work of the General Assembly. The precarious balance between the various United Nations organs as laid down in the Charter must not be jeopardized by a proliferation of observers in the General Assembly. The establishment of criteria for the granting of observer status in the General Assembly in exceptional cases needed very careful consideration in all its aspects. His delegation shared the view that a working group of the Sixth Committee would be the best forum in which to continue that discussion.

28. Mr. AL-MARRI (Kuwait) said that the subject of fixed criteria should be explored and the needs of the Organization thoroughly studied in the light of international law. His delegation supported the proposal that an ad hoc working group should be established to develop criteria for granting observer status.

29. The CHAIRMAN, speaking as the representative of Ghana, welcomed the United States proposal. The primary consideration in the granting of observer status should not be whether there was a proliferation of groups obtaining such status, but whether granting it would benefit the Organization and promote the purposes and principles of the Charter. The International Federation of Red Cross and Red Crescent Societies was a world-wide organization which implemented the objectives of the Charter in the humanitarian field and was therefore worthy of being considered for observer status.

30. Speaking as the Chairman, he suggested that, as all the delegations participating in the discussion had supported the United States proposal, the Committee should hold consultations and revert to the matter in due course.

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/49/33)

31. Mrs. LADGHAM (Tunisia) recalled that, in its resolution 48/36, the General Assembly had requested the Special Committee to consider on a priority basis proposals on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. In her view, the Special Committee had not devoted sufficient time or attention to the issue which, none the less, urgently required a permanent solution.

32. In his report on the subject (A/48/573-S/26705), the Secretary-General had highlighted the deficiencies of the current system, which was based on a case-by-case approach, and had stressed the need for a permanent mechanism. The Secretary-General had further indicated that, with the exception of the International Monetary Fund and the World Bank, the other international financial institutions, especially the regional ones, were not in a position to alleviate the economic difficulties of third States.

33. While Article 50 of the Charter authorized any State affected by the application of sanctions against another State to consult the Security Council with regard to a solution of the special economic problems it faced, consultation was not an end in itself. So far, the Council had responded to such requests for assistance by instructing the sanctions committees to draw up recommendations, which culminated in an appeal to all States and competent organs and specialized agencies of the United Nations system to provide assistance to the countries in question. In her delegation's view, it was inadvisable to entrust such a responsibility to a committee already burdened with the task of monitoring the implementation of sanctions; moreover, the assistance provided was generally inadequate to the needs of the affected countries.

34. For those reasons, her delegation believed that working paper A/AC.182/L.79 (A/49/33, para. 52), of which it was a sponsor, contained some interesting ideas. In particular, Tunisia supported the proposal that a special trust fund should be established to finance assistance to third States. The suggestion concerning the holding of consultations between the Security Council and those Member States most likely to be affected as a result of the imposition of sanctions also deserved consideration. Tunisia also welcomed the French proposal that the Security Council should hold more frequent formal meetings in order to hear the views of Member States before determining its position on major issues. That would increase the transparency of the Council's functioning and procedures.

35. At the time of the submission by Cuba of the revised version of its working paper entitled "Strengthening of the role of the Organization and enhancement of its efficiency" (A/49/33, paras. 90-97), some delegations had expressed the view that, as the question of increase in the membership of the Security Council was already under consideration by an Open-Ended Working Group, it was inappropriate for the Special Committee to consider such a document. Her delegation believed

that, on the contrary, the Special Committee had an important contribution to make in that area. The working paper contained proposals that deserved further study, such as those concerning the preparation of definitive rules of procedure of the Security Council and the study of cases in which Chapter VII of the Charter had been invoked.

36. Her delegation welcomed the finalization by the Special Committee of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, paras. 83-89). The growing role of the United Nations in the maintenance of international peace and security would be further enhanced if it could rely on the contribution of regional organizations, especially in the area of preventive diplomacy. Such organizations, by virtue of their familiarity with local situations, were in a better position to detect threats to peace at an early stage. However, in order to maximize the role of such organizations, ways of strengthening their capacity for intervention must be considered. For example, the draft declaration could have placed greater emphasis on the development of training programmes for the military personnel of the States members of such organizations participating in peace-keeping operations and the provision of technical, financial and logistical support.

37. Mr. DENYER (New Zealand) welcomed the completion of the Special Committee's work on the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, paras. 83-89). That issue was of particular relevance to New Zealand and other countries which were participating in a South Pacific regional peace-keeping force with a view to resolving the long-standing dispute over the island of Bougainville. The draft declaration provided a useful framework for the involvement of regional organizations in efforts to maintain international peace and security. Most importantly, the draft declaration recognized that such involvement must be in conformity with the provisions of the Charter of the United Nations. It also acknowledged the primary role of the Security Council in that field.

38. With the increasing resort by the Security Council to economic sanctions, the adverse consequences of such measures were being felt not only by the targeted countries but often by third States as well. His country appreciated the seriousness of that situation and noted that the Council had recently attempted to apply more narrowly focused sanctions in order to minimize their impact on innocent parties, whether individuals or States. Nevertheless, his delegation continued to believe that the adverse consequences for third States should be addressed on a case-by-case basis, rather than through the creation of new institutions or mechanisms.

39. With regard to the peaceful settlement of disputes, New Zealand welcomed the progress made by the Special Committee on the draft articles entitled "United Nations Model Rules for the Conciliation of Disputes between States" (A/49/33, paras. 102-111). It was to be hoped that the Special Committee would be able to conclude its work on the proposed Model Rules at its 1995 session. In view of the substantial body of instruments for the peaceful settlement of disputes which had been developed thus far, the Special Committee should give

priority to promoting recourse by States to existing procedures and institutions, rather than to the elaboration of further instruments.

40. New Zealand welcomed the draft resolution submitted by Poland (A/C.6/49/L.3) urging the Special Committee to give consideration, as a matter of priority, to the deletion of the "enemy-State" clauses of Articles 53 and 107 of the Charter, as they had little relevance to the current situation in the United Nations.

41. Mr. KHAN (Pakistan) said that, while the United Nations had achieved many successes in diverse areas, its failures and omissions had, at the same time, partially eroded its credibility. The lack of effective action by the United Nations in the face of naked aggression and ethnic cleansing in one instance had encouraged repressive actions in other areas. Some States continued to exhibit contempt for international norms, and were using their armed forces to perpetrate massacres, genocide and brutal repression of innocent people struggling to exercise their right to self-determination. The cry of distress of the innocent people of Jammu and Kashmir was a constant reminder of that phenomenon.

42. The United Nations and the international community must play an active role in defusing tensions by helping to resolve disputes between nations in volatile regions. The Organization must encourage the States concerned to conclude agreements for the non-proliferation of nuclear weapons and ballistic missiles, and must institute disarmament and confidence-building measures.

43. In recent years the role of the United Nations in peace-keeping had expanded and evolved. The General Assembly should adopt clear guidelines for the conduct of peace-keeping operations in the light of experience. His country believed that United Nations peace-keeping operations should be initiated or terminated only with the prior approval of the Security Council. Accordingly, it was essential to create mechanisms to provide advance warning of crises or conflicts.

44. His delegation was concerned at the emerging tendency to attribute a peace-keeping role to regional Powers. Such a role should be inadmissible when countries had direct political interests in the area of the conflict. The States Members of the United Nations should in no way abdicate their responsibility for collective security under the Charter. The selectivity with which Security Council mechanisms had been used in the past had created a sense of grievance in various States and should be redressed.

45. While his country was aware of the financial difficulties which the United Nations was facing in carrying out its peace-keeping operations, those constraints should not be allowed to impinge upon the Organization's obligation to uphold peace and security around the world.

46. His delegation shared the sense of urgency with regard to establishing a permanent mechanism to deal with the financial and economic difficulties encountered by third States as a result of the increasing resort to sanctions by the Security Council. The developed countries and the international financial

institutions had a special responsibility to mitigate the economic hardships suffered by developing countries which had scrupulously implemented the sanctions regimes.

47. His delegation welcomed the completion of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, paras. 83-89). Pakistan shared the view that regional organizations could make an effective contribution in the field of preventive diplomacy, especially through fact-finding missions, and commended the positive role played by the Organization of the Islamic Conference.

48. The rule of law in international relations should be promoted through greater recourse to the International Court of Justice, both for adjudication of disputes of a legal nature and for advisory opinions on legal aspects pertaining thereto. His country had accepted the compulsory jurisdiction of the Court and encouraged other States to do so.

49. His Government's views on the question of increasing the membership of the Security Council had been conveyed to the Secretary-General separately. Pakistan agreed that the non-permanent membership of the Security Council should be enlarged in an appropriate manner and that its working methods and procedures should be rendered more transparent. The concept of permanent membership was at variance with the principle of the sovereign equality of States. It was necessary to avoid creating new centres of power and privilege within the Organization.

50. Mrs. DASCALOPOULOU-LIVADA (Greece) said that although the draft declaration had been improved in many ways, it had also lost some elements, particularly those concerning the role of regional arrangements or agencies in the promotion and protection of human rights. Greece, which had acutely felt the adverse repercussions of the application of such sanctions, had a special interest in the question of assistance to third States affected by the application of sanctions under Chapter 7 of the Charter.

51. Her delegation welcomed the working paper submitted by the Russian Federation entitled "New issues for consideration in the Special Committee" (A/AC.182/L.65/Rev.1) and, in particular, its proposals concerning sanctions against States which violated the peace or failed to implement Security Council resolutions. The international community should not forget that the Council's resolutions concerning Cyprus continued to be ignored, which was an unacceptable state of affairs.

52. Greece also supported the Russian Federation's proposals for strengthening the collective security system established by the Charter. The three main pillars upon which the United Nations was based were non-use of force, the peaceful settlement of disputes and collective security. Over the years, the Special Committee had successfully examined the first two principles and had elaborated two valuable declarations on them. It was now important to examine the question of collective security by elaborating on Chapter VII of the

Charter, even though a declaration on that subject might not be strictly necessary.

53. As for the modalities of implementing Security Council resolutions within the internal legal order of States, few members of the international community had established the relevant legislative provisions, and the implementation of such resolutions was therefore rather haphazard. The Special Committee should consider that question in the context of working paper A/AC.182/L.65/Rev.1.

54. On the question of the peaceful settlement of disputes between States, Greece supported the proposed United Nations Model Rules for the Conciliation of Disputes between States. However, her delegation continued to have strong misgivings about article 8 of the Model Rules, which did not enumerate international law or the principles of international law among those elements which should guide the conciliation commission. It was odd that vague notions, such as objectivity, equity and justice, should provide the only guidance to the commission to the exclusion of international law, which was, by all standards, the most solid basis for the settlement of international disputes. Such an omission would only discourage States from resorting to the services of an otherwise commendable mechanism.

55. The proposal submitted by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" (A/48/398, annex) deserved careful examination to determine whether it offered a substantial alternative to States seeking to settle their disputes. The answer to the question of whether the services envisaged should be centred around mediation or conciliation would determine the direction in which the proposal should be further elaborated.

56. Mr. SARDENBERG (Brazil) said that, at a time when the United Nations was assuming additional burdens and undertaking more complex and multifaceted functions, the apparent contradiction between overcoming ideological rivalries and the continuation of areas of instability provided a great opportunity for a necessary re-evaluation of the role of the United Nations and its Charter, which was the fundamental objective of the Special Committee.

57. The improvement of cooperation between the United Nations and regional organizations was a question of increasing importance in the process of strengthening international peace and security. A better definition of the responsibilities of the United Nations and the regional organizations would enhance the effectiveness of the collective security system provided for in Chapter VIII of the Charter. Also, the relationship between the United Nations and regional organizations should be mutually reinforcing and complementary and should be based on full respect for the mandates and spheres of competence of each organization. The most effective response to a threat to international peace and security was to ensure proper coordination of the efforts of the United Nations and regional organizations. Indeed, regional organizations could sometimes play a more effective role in the maintenance of international peace and security than the United Nations. Where the democratic process was disrupted, for example, the Organization of American States had its own mechanisms and methods of settling internal conflicts. The Special Committee's

work had therefore been greatly enriched by the participation of representatives of intergovernmental organizations in the 1993 and 1994 sessions of the Special Committee.

58. In view of the resurgence of numerous regional conflicts as a consequence of the new international reality, regular meetings should be held between the Secretary-General and the leaders of regional organizations. Closer ties should also be established between other United Nations officials and officials of regional organizations.

59. On the question of the maintenance of international peace and security, the ideas expressed in the working paper on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/AC.182/L.79) had become more urgent as a result of the increased activity of the Security Council in the application of sanctions under Chapter VII of the Charter and the growing economic interdependence of States. The international community should seriously consider the issues raised in the working paper, in particular the idea of sharing the costs of a system of collective security, the principle of mutual assistance and the need for specific mechanisms for providing assistance to third States affected by the application of sanctions.

60. The establishment of procedures to implement Articles 49 and 50 of the Charter was a complex and time-consuming endeavour. A mechanism should therefore be devised to identify criteria for assessing the special economic problems confronted by third States from the carrying out of the preventive or enforcement measures taken by the Security Council against any State. Such a mechanism could be financed from the opening of special credit windows in international financial institutions.

61. On the question of the peaceful settlement of disputes between States, the document submitted by Guatemala entitled "United Nations Model Rules for the Conciliation of Disputes between States" was an important initiative aimed at strengthening existing methods of peaceful settlement of disputes between States which could lead to the establishment of a set of model rules designed to facilitate recourse to conciliation. For its part, the proposal submitted by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" formed a good basis for the future work of the Special Committee in that area.

62. On the question of wider participation by the international community in the decision-making process of the United Nations, and in particular of the Security Council, his delegation was of the view that a more representative and balanced composition would enhance the effectiveness of the Council's actions and the authority of its decisions. The adoption by consensus of General Assembly resolution 47/62 was a reflection of the international community's recognition that the time had come to reassess the composition of the Council in light of not only the substantial increase in the Organization's membership but also the Council's increasingly active and important role in a dramatically changing international environment. His delegation considered, further, that references in the Charter to "enemy State" were no longer appropriate.

63. Recent developments had led to widespread expectations of a new and more equitable international order in which the United Nations would play a larger role. The transition from confrontation to cooperation could hardly be achieved and sustained, however, without the strengthening of the Organization and its Charter.

64. Mr. WAH TECK (Singapore) said that the Committee should ensure that the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies contained positive proposals which were consistent with the legal principles underlying the structure and operations of the United Nations. Of particular importance were the proposals that regional arrangements and agencies should assume greater responsibility for the maintenance of peace and stability in their respective regions. It had also been suggested that regional arrangements and agencies could be utilized by the Security Council for enforcement actions in appropriate circumstances.

65. Regional arrangements and agencies clearly had important roles to play in regional affairs, including the maintenance of international peace and security, provided that such activities were in accordance with the purposes and principles of the United Nations. Under the Charter, the Security Council had primary responsibility for the maintenance of international peace and security. Indeed, Article 53 of the Charter provided that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council." In that connection, Singapore was of the view that anachronistic references to "enemy States" in the Charter should be removed.

66. The existing provisions of the Charter relating to the role of regional arrangements and agencies in the maintenance of international peace and security reflected a carefully thought through consensus by the framers of the Charter and there was little evidence that the considerations of that time were no longer valid today. The United Nations had been and still was the basic global organization for peace and security, and regional organizations functioned within that framework and were subject to the same overriding purposes and principles. The Organization was the only vehicle capable of providing an integrated approach to global peace and development. Because a breach of the peace anywhere in the world was a threat to the peace and security of the whole world, it was the responsibility of the international community as a whole, acting through the United Nations, to address that threat. That principle had been validated by recent experiences. In Cambodia, for example, the United Nations Transitional Authority in Cambodia was widely regarded as one of the most successful United Nations operations. It was doubtful whether the same success could have been achieved if that had been a purely regional effort.

67. Regional arrangements and agencies were of different kinds. Most regional arrangements were economic in nature and could not be used for security enforcement. Whatever the situation, it was imperative to first ascertain whether such organizations had the requisite legal powers in their charters before assigning responsibilities to them for the maintenance of peace and security.

68. As a member of the Association of South-East Asian Nations (ASEAN), Singapore had seen the benefits of regional arrangements in the promotion of regional peace, prosperity and dialogue. It was in such ways that regional organizations and agencies, together with the United Nations, could contribute to the maintenance of international peace and stability.

69. Mr. STRAUSS (Canada) commended the efforts made to ensure that the draft declaration which recognized the importance of regional arrangements in the peaceful settlement of disputes between States and set out parameters for cooperation between the United Nations and those regional arrangements was fully consistent with the Charter, in particular Chapter VIII thereof. Canada would therefore support the adoption of the draft declaration by the General Assembly. His delegation also supported the suggestion that a handbook should be elaborated on that subject.

70. His delegation regretted that it had not been possible to conclude work on the Model Rules for the Conciliation of Disputes between States. The sponsor had done an excellent job in accommodating the comments made by States and his delegation would work towards the adoption of the Model Rules the following year.

71. His delegation also regretted the limited progress which the Special Committee had made in its consideration of the working paper on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. It recognized the seriousness of that issue for many countries and the fact that the mechanisms put in place so far had proved inadequate. There were no magic solutions, however, and efforts must continue to find a universally acceptable solution.

72. Although the Special Committee would be pressed in 1995 because some of its time had been taken up with preparations for the Congress on Public International Law, he hoped that it would nevertheless consider the subject of granting the Secretary-General the authority to seek advisory opinions from the International Court of Justice as an additional instrument for aiding the peaceful settlement of disputes between States.

73. On the question of membership of the Special Committee, his delegation believed that the Special Committee should be opened to all States on an equal basis. Limited membership of the Special Committee was not appropriate to the subjects which it considered nor was it an accurate reflection of the real participation in the Committee.

74. Mr. GUILLEN SALAS (Peru) said that the international developments of the previous year highlighted the urgent need to enhance the effectiveness of the United Nations in the field of peace-keeping and in the peaceful settlement of disputes between States. It was important for the Special Committee to recognize the new realities and to suggest new, flexible and consensus-based approaches which could become elements of a new system of international security that would permit the Organization to continue to play its key role in that area. The Special Committee should bear in mind that, unlike in the case of

conflicts between States, the nature of current internal conflicts in various States meant that the provisions of Chapter VII of the Charter could not be automatically applied. Internal conflicts also needed urgent and appropriate action by the Organization, with respect for the principles of the Charter and without encroaching upon the primary responsibility of the Security Council for the maintenance of international peace and security. That was the current dilemma being faced by the Special Committee on the Charter.

75. One course of action could be to improve cooperation between the United Nations and regional organizations for the maintenance of peace and the peaceful settlement of disputes between States. Such cooperation, however, must be sufficiently flexible and must take account of the specific characteristics of each regional organization, their mandates, experience and real capacities. It would also be useful in certain cases to develop the capacities which regional organizations needed in order to contribute more effectively to peace-keeping.

76. The rule of law was indispensable to the achievement of peace, and the International Court of Justice had a constructive role to play in that area. Careful and positive consideration should therefore be given to the possibility that, in very special circumstances, the Secretary-General should be authorized to request advisory opinions from the Court, thereby avoiding legal and political difficulties.

77. In light of the primary responsibility which the Charter conferred on the Security Council for the maintenance of international peace and security the question of equitable representation in the Security Council, the increase in its membership and the reform of its working methods were of crucial importance. Since both matters were being considered by a Working Group of the General Assembly, it might be advisable for the Special Committee to consult with the Working Group in order to avoid duplication of efforts.

78. Mrs. COBO (Venezuela) said that the practical measures contained in the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security would support the activities of the United Nations in that field. The draft declaration should be supplemented by a handbook on cooperation between the United Nations and regional organizations and by the holding of seminars on the subject, possibly as part of the activities planned to commemorate the fiftieth anniversary of the Organization.

79. On the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, Venezuela was aware of the need to achieve a practical and equitable solution to the economic problems that confronted third States as a result of the application of sanctions by the Security Council. States so affected should be able to rely on automatic mechanisms for appropriate compensation. The establishment by the specialized agencies of transitory preferential mechanisms in the areas of trade and finance would provide reasonable compensation for third States. The experience and practical modalities for doing so already existed.

80. Because of the increasingly important role of the United Nations in international relations, the subject of the strengthening of the role of the Organization and the enhancement of its effectiveness should be considered by the Special Committee at its following session. The Organization's capacity to respond to the increasing demands being made on it were determined to a large extent by its very structure and the manner in which it took its decisions. The Charter should therefore be revised and the Organization democratized in order to adapt it to current needs. Venezuela supported the suggestion that the Special Committee should consider the reforming of the Security Council, the strengthening of the General Assembly and the use of Chapter VI of the Charter and of preventive diplomacy.

81. Her delegation welcomed the progress made in the consideration of the revised document submitted by Guatemala containing the proposed "United Nations Model Rules for the Conciliation of Disputes between States". The proposed Model Rules for establishing the mechanism of conciliation, which was also envisaged in the Charter, would institutionalize a mechanism under which action would be based on the will of the parties. She hoped that a flexible mechanism could thus be established which would offer States alternative options and methods for the settlement of their disputes. The existence of different instruments which could be used by the Organization in its search for peaceful solutions to disputes did not create confusion but rather broadened the range of available options.

82. Finally, her delegation supported the proposal that the Special Committee should review the references to "enemy States" in the Charter at its next session.

83. Mr. CAMACHO (Ecuador) said that his delegation supported the draft declaration on the improvement of cooperation between the United Nations and regional organizations, submitted by the Russian Federation, since such cooperation would strengthen the capacity of the international community to face the challenges of peace and security by making fuller use of the strengths of regional arrangements and agencies in such areas as the early detection, the prevention and the peaceful settlement of disputes. In view of the diversity of the composition of regional arrangements, Ecuador shared the view of other delegations that such cooperation should be tailored to each particular case.

84. The proposed United Nations Model Rules for the Conciliation of Disputes between States represented a useful contribution, and he hoped that the Special Committee would be able to complete its consideration of the draft rules during its next session. He also welcomed the proposal by Sierra Leone for the establishment of a Dispute Settlement Service and hoped that the Special Committee would, likewise, give consideration to that document during its next session.

85. Finally, in view of the changed circumstances in the modern world, Ecuador supported the proposal by Poland that the references to "enemy States" in the Charter should be deleted, and he hoped that the Special Committee would adopt a resolution to that effect at its next session.

86. Mr. KOLOMA (Mozambique) said that international peace and security were the underlying sine qua non for the attainment of all other goals of the Charter, and Mozambique therefore welcomed all the documents relating to that issue which had been submitted for consideration by the Special Committee.

87. Mozambique had a history of severe economic suffering incurred as a result of its strict application of sanctions against the former Rhodesia in compliance with the relevant Security Council decision, and it therefore supported the proposal contained in document A/AC.182/L.79 regarding the creation of a trust fund to assist third States affected by sanctions applied under the Charter. In addition, it welcomed the suggested establishment of a permanent mechanism for consultations between the Security Council and those third States most likely to be affected by the implementation of sanctions. His delegation questioned how the problem of adverse economic effects could be solved within the framework of the Bretton Woods institutions, as had been suggested by some members of the Special Committee, and it regretted the failure to reach consensus on the issue. It therefore hoped that the Special Committee would be able to achieve a more positive result after its analysis of the requested report by the Secretary-General on the issue.

88. In view of the importance of regional arrangements or agencies in the maintenance of international peace and security, Mozambique welcomed the adoption by the Special Committee of the draft declaration on the enhancement of cooperation between the United Nations and such arrangements or agencies and shared the view expressed in the report by the Special Committee that the activities of the United Nations and regional arrangements or agencies in the maintenance of international peace and security should be complementary and based on close cooperation. To that end, the United Nations should make full use of the provisions of Chapter VIII of the Charter, but such cooperation should be based on respect for the autonomy of each organization concerned.

89. In view of the positive changes in international relations following the end of the cold war, there was an urgent need to refashion the Organization, and Mozambique therefore welcomed the reforms currently under way within the United Nations system in compliance with General Assembly resolution 48/168. In particular, it welcomed the establishment of the Open-ended Working Group on the question of equitable representation on and increase in the membership of the Security Council. The more than threefold increase in the number of States Members of the United Nations had rendered essential an increase in the membership of the Security Council. Furthermore, as stressed by the Council of Ministers of the Organization of African Unity (OAU), the requirement for equitable geographical representation necessitated extending permanent membership to developing countries, in particular those in Africa.

90. Ms. FLORES (Mexico) said that, notwithstanding its considerable past achievements, the Special Committee faced growing new challenges and had to play an increasingly important role in response to the major changes in international relations. The growing number of observers attending meetings of the Special Committee was evidence of the importance attached by the Members of the United Nations to its work and suggested that careful consideration should be given to the need to open the Special Committee's work to all Members of the

Organization, which should be able not merely to contribute as observers but also to participate in the adoption of decisions.

91. The current international climate necessitated closer coordination and cooperation between the United Nations, on the one hand, and, on the other, regional arrangements and agencies. Such cooperation should, however, be achieved in accordance with the provisions of Chapter VIII of the Charter, with due recognition of the autonomy of the two systems and respect for their various constitutive instruments. The participation of regional arrangements and agencies in the maintenance of international peace and security was an issue which must be decided on a case-by-case basis, taking into account the specific competence and legal mandate of the regional body concerned. It was vital to safeguard the sovereign right of each State to decide whether to bring its concerns before regional or world bodies.

92. In view of the increasingly wide use of sanctions by the Security Council, Mexico supported the proposals by the Special Committee relating to assistance to third States affected by the implementation of such sanctions. In particular, it believed that consideration should not be confined to the consequences of such sanctions but that recommendations should be prepared on measures which the Security Council could adopt prior to the imposition of sanctions, with a view to preventing or mitigating their adverse economic consequences for third States.

93. She conveyed Mexico's support for all the proposals contained in the working paper entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security". She noted in addition that the consideration by other bodies of the political ramifications of increasing the Security Council's membership and revising its working methods would be complemented by the discussions in the Sixth Committee, which would focus on its legal implications.

94. Her delegation supported the document submitted by Guatemala on the conciliation of disputes between States (A/49/33, para. 105) and hoped that the work of the Special Committee on the Charter would help transform the Organization into a truly democratic body with more transparent working methods.

95. Mr. CHATURVEDI (India), speaking in exercise of the right of reply, said that the Minister for Foreign Affairs of Pakistan, in his address to the General Assembly on 4 October 1994, had displayed the traditional Pakistani obsession with attacking India. While his delegation did not share Pakistan's mind-set and did not intend to emulate that country's display, he pointed out that the Minister's allegations were a travesty of the facts, intended to draw attention away from Pakistan's role as the world's foremost promoter of international drug-related terrorism. He was confident that the States Members of the United Nations would not endorse the terrorist practices of Pakistan and urged that country to mend its ways.

96. Mr. AKRAM (Pakistan), speaking in exercise of the right of reply, said that, in his statement, the Indian representative had failed to address the principal issue: India's consistent violations of the Charter and of Security

Council resolutions relating to the situation in Jammu and Kashmir. Over the previous five years, Indian armed forces had engineered a campaign of genocide in Kashmir, involving widescale rape and incarceration and the slaughter of 40,000 Kashmiris. Those atrocities were well documented by such organizations as Amnesty International and Asia Watch and he appealed to the international community to put pressure on India to halt the genocide in Kashmir.

97. As for the allegations concerning terrorism, he said that Pakistan would revert to that issue at a later date. He pointed out, however, that it had been India which, in the early 1980s, had opposed the adoption by the South Asian Association for Regional Cooperation (SAARC) of a convention on terrorism, proposed by Sri Lanka, because India had been - and still was - engaged in campaigns of terrorism against every one of its neighbours in south Asia.

The meeting rose at 1.05 p.m.

UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

SIXTH COMMITTEE
11th meeting
held on
Thursday, 13 October 1994
at 3 p.m.
New York

SUMMARY RECORD OF THE 11th MEETING

Chairman: Mr. MADEJ (Poland)
(Vice-Chairman)

CONTENTS

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of the publication* to the Chief of the Official Records Editing Section, room DC2-794, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/49/SR.11
5 December 1994
ENGLISH
ORIGINAL: FRENCH

94-81635 (E)

In the absence of Mr. Lamptey (Ghana), Mr. Madej (Poland), Vice-Chairman, took the Chair.

The meeting was called to order at 3.15 p.m.

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/49/33; A/C.6/49/L.3)

1. Mr. MAMEDIAROV (Azerbaijan) said that the in-depth discussions which had taken place in the Special Committee on the subject of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security indicated that, the cold war having ended, there were new opportunities for the United Nations to become the main instrument for the peaceful settlement of disputes between States. United Nations peace-keeping forces were currently to be found at the four corners of the earth, and it was the United Nations which was requested to intervene each time a new "hot spot" appeared.

2. Nevertheless, in recent years, such destabilizing factors as the expression of territorial ambitions and the rapid expansion of nationalist organizations and separatist groups had multiplied. In that context, the regional organizations could provide useful assistance and complement United Nations efforts. Azerbaijan, which itself belonged to a number of regional organizations, was aware of the difficulties created not only by the division of responsibility between the United Nations and those organizations but also by their collaboration and the coordination of their activities. However, the regional organizations were part of the system of collective security provided for in the Charter, and when examining the question of their cooperation with the United Nations, it was appropriate to rely not only on the provisions of Chapter VIII, but also on those of Chapter VI and Chapter VII, which were relevant to the proposed declaration. All aspects of that cooperation should take place in strict conformity with the purposes and principles of the Charter, especially the principles of respect for the sovereignty and sovereign equality of all States, their territorial integrity and non-interference in their internal affairs. Peace-keeping operations could in no circumstances assume the character of an invasion or an intervention or take place without the agreement of the States concerned.

3. The Azerbaijani delegation agreed that relations between regional organizations, arrangements and agencies and the Security Council should be improved. The Council should be kept fully informed on a permanent basis of the measures taken or planned by the regional organizations and none of those measures should be implemented without its authorization.

4. Azerbaijan noted with regret that several Member States took no notice of General Assembly or Security Council resolutions. For several years the Republic of Armenia had been trying to dismember Azerbaijan in defiance of Security Council resolutions ordering it to respect the sovereignty and

territorial integrity of the Azerbaijani Republic and recalling the principles of the inviolability of international frontiers and the inadmissibility of the use of force in order to acquire territory. That cynical attitude demonstrated that the most severe sanctions should be adopted against Member States which did not implement United Nations resolutions. In that respect, working paper A/AC.182/L.79 on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter was particularly relevant. His delegation was of the opinion that providing such assistance would make the application of sanctions easier by reducing the risk that severely affected third States would shirk their responsibilities. It supported the idea of establishing a trust fund which would determine the level of assistance necessary for each particular case.

5. Mr. RIVERO (Cuba) said that the increasing interest shown by States in the work of the Special Committee would justify a review of the latter's composition. Cuba, which had always taken an active part in the work of the Special Committee, was hoping to become a full member.

6. His delegation was glad to note that agreement had been reached on the subject of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/AC.182/L.72/Rev.2), and was pleased to see that the principle of respect for sovereignty was established in that document.

7. Given that the matter of assistance to third States affected by the application of sanctions under Chapter VII of the Charter had still not been settled, his delegation hoped that the Special Committee would redouble its efforts to arrive at a fair solution to that sensitive problem.

8. The Committee should also have the opportunity to give due consideration to the revised version of the working paper submitted by Cuba entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security". He therefore hoped that the draft resolution referring to the work of the Committee would include that question among the topics to be discussed as a matter of priority at the next session.

9. Mr. ORDZHONIKIDZE (Russian Federation) said that current positive world developments were being countered on the local and regional levels by conflicts which were caused by aggressive nationalism or religious and ethnic intolerance. The role of the United Nations in the maintenance of peace was growing and changing, hence the need for a rational division of labour between it and the regional organizations. The working paper submitted by the Russian Federation to the Special Committee, which had examined it over several years, dealt with precisely that question. At its 1994 session, the Special Committee had unanimously adopted the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security, established on the basis of the Russian proposal.

10. Compared to the initial draft, the version adopted by the Special Committee was more modest in its objectives and had a more limited scope. It generalized and to some extent developed current practice with regard to relations between the United Nations and regional organizations. Regional organizations were clearly eager to give concrete form to the potential embodied in the provisions of Chapter VIII of the Charter. That was particularly true of the Commonwealth of Independent States (CIS), a regional organization on whose territory peace-keeping operations were currently being carried out in full cooperation with the United Nations. The Russian Federation would welcome even more active support, in particular from the United Nations, for efforts to settle crises and maintain stability in the CIS region. That was a matter of interest not only to the Russian Federation, which bore the main burden of the peace-keeping operations, but also to the countries directly affected by the conflicts and, naturally, the entire international community.

11. The question of enhancing cooperation between the United Nations and regional organizations could not be resolved simply by adopting a declaration. Representatives of regional organizations who had met with the Secretary-General in New York in August 1994 believed that such contacts should be held regularly, and they had made some concrete proposals in that regard. Like many other States, the Russian Federation was convinced that it would be useful to consider ways and means of carrying out such cooperation. It proposed that the Special Committee should not conclude its work on the matter but should continue it in a more concrete form. The Secretary-General might be requested to prepare and present to the Special Committee at its next session a report on the growth of cooperation between the United Nations and regional organizations and his observations on the forms and methods of its development. The Special Committee would be able to express its views on the measures taken by drafting a "follow-up" declaration, which his delegation hoped would be adopted by consensus.

12. His delegation was closely following the consideration of the problem of the adverse economic effects on third States owing to the application of sanctions by the Security Council. In some States, those effects were being felt at the macroeconomic level. His country, which had itself suffered from substantial economic losses as a result of having applied sanctions, believed that it was important to clarify the process of applying Article 50 of the Charter and to find a speedy, universally acceptable solution to the problem. Without prejudice to the effectiveness of measures taken by the United Nations, such a solution would reduce to a minimum any adverse economic consequences of sanctions for Member States which were scrupulously fulfilling their commitments in the areas of the maintenance of international peace and security.

13. With regard to the proposed United Nations model rules for the conciliation of disputes between States, it was his view that the Special Committee could devote time at its next session to concluding its consideration of that matter.

14. The Special Committee could and should play an essential role in improving the effectiveness of the United Nations. It was within the Organization that the most interesting proposals were being made about various ways in which its

activities might be improved. Many of those proposals merited careful consideration. The potential of the Charter must be fully exploited, and proposals which had thus far remained dead letters should be revitalized, in particular those relating to Article 43 of the Charter. The Russian Federation was prepared to conclude an agreement which would provide a contingent of Russian troops to United Nations peace-keeping operations. Like other States, it was ready to give concrete form to the idea of a United Nations stand-by force. The Military Staff Committee, which thus far only had a formal existence, should be reactivated.

15. In developing new strategies for the maintenance and re-establishment of peace, it was important to find a balance between making the needed reforms and preserving mechanisms which had demonstrated their effectiveness. The Special Committee must contribute to that effort, not by dismantling United Nations structures and revising the Charter, but by supporting the proven method of adapting the Charter to new realities by updating the manner in which its provisions were applied.

16. Ms. LINEHAN (Australia) said that while it was not a member of the Special Committee, Australia took a close interest in its work, including its efforts to enhance cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security. Enhancing that cooperation was clearly desirable. The nature of the cooperation would vary depending on the capacity of the regional agency concerned and the particular characteristics of the conflict, and for that reason guidelines for cooperation must be flexible enough to adapt to that changing context. Such cooperation must also be fully consistent with the Charter. In that regard, her delegation welcomed the adoption by the Special Committee of the draft declaration.

17. Australia would be elaborating a draft resolution on preventive diplomacy which it would submit to the plenary meeting of the General Assembly. The text, which would be a useful complement to the Special Committee's draft declaration, would endeavour to emphasize the integration of pre-conflict and post-conflict peace-building activities throughout the United Nations system; explore means to establish regional peace and security centres in cooperation with regional arrangements or agencies to complement regional security arrangements and facilitate the peaceful settlement of disputes; and encourage regional agencies to provide early warning information to the Secretary-General. The draft resolution would also encourage Member States to make greater use of the International Court of Justice for the peaceful settlement of disputes. In addition, the promotion of a dispute resolution facility within the Secretariat would be advocated.

18. With regard to the Committee's work on the application of Article 50 of the Charter, Australia recognized the need to assist third States affected by the application of sanctions under Chapter VII. In the context of the Decade of International Law, Australia was examining, in collaboration with the Netherlands, the general question of sanctions. The work would be focused on examining the need for precise and realistic goal-setting in the development of sanctions; the operation of sanctions in practice, including monitoring and

enforcement; reporting systems and the role of sanctions committees; problems of implementation; and ways to lessen the impact of sanctions on third States. With regard to the final point, there was clearly a need, for the sake of fairness, to find better responses. Sanctions should be targeted more carefully and appropriate arrangements should be made for financial assistance. Her delegation looked forward to the Secretary-General's report on the way in which sanctions were affecting third States. It hoped that the Secretary-General might draw on the work it was proposing to undertake with the Netherlands. It might be useful for the Special Committee to hold a more general discussion on sanctions along those lines.

19. Her delegation was grateful to the Special Committee for its work on the future composition of the Security Council. Like other delegations, it was not in favour of duplicating the work currently being done by the Open-Ended Working Group on the Equitable Representation on and Increase in Membership of the Security Council.

20. Her country urged that consideration should be given to expanding the membership of the Special Committee. It was perhaps time to transform it into a committee of the whole.

21. Mr. VANHARA (Czech Republic) said that he shared the opinion of those delegations which had pointed out that the primary task of regional arrangements and agencies should be to seek a peaceful settlement of international disputes within the scope of Chapter VI of the Charter. The specific methods of peaceful settlement of local disputes worked out by various regional organizations, which were more attuned to regional customs and realities, should be applied more often by States. The role of such organizations was particularly relevant in the sphere of preventive diplomacy. The United Nations could benefit from their experience in attempting to settle conflicts at an early stage through early-warning mechanisms. Subject to the application of Chapter VII, the sovereignty and territorial integrity of the States concerned must, in all cases, be respected. Any measure taken under Chapter VI or Article 52 of Chapter VIII must have the express consent of the States concerned. With regard to the application of Chapter VII, regional arrangements should play a role complementary to that of the Security Council as provided for in Article 24. Regional arrangements must be chosen for such cooperation in accordance with their competence, as defined in their statutes, as well as their capacity for action.

22. With regard to traditional peace-keeping operations, the United Nations should confine itself to well-known practices and should cooperate with regional organizations only when strict neutrality and impartiality towards the parties to the conflict was guaranteed. A broader application of Chapter VIII was desirable. As the United Nations was called upon to deal with numerous conflicts around the world with limited resources, the adoption by the General Assembly of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security should significantly lighten the Organization's current burden. His delegation strongly supported the development of a handbook

on the subject and the holding of a seminar in order to sort out the various complex aspects of cooperation between the United Nations and regional organizations.

23. The Czech Republic was very interested in the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII. Among the various proposals contained in working paper A/AC.182/L.79, the idea of establishing a trust fund did not appear to be appropriate, as it was difficult to believe that the United Nations could resolve the difficulties experienced by affected States through such a fund, especially in view of the Organization's current financial difficulties. The practice of the Security Council showed that each sanctions regime must be assessed on a case-by-case basis. It would be too idealistic to look for a universal solution. The current practice with regard to the application of Article 50 should be evaluated; his delegation strongly supported the recommendation of the Special Committee that the Secretary-General should be invited to submit a report on the question.

24. The Czech delegation hoped that the proposed United Nations Model Rules for the Conciliation of Disputes between States would be transformed into its final version during the next session of the Special Committee. Moreover, his delegation shared the view of those delegations which had maintained that the question of the expansion of the membership of the Security Council should be discussed within the Open-ended Working Group established for that purpose by the General Assembly. Further consideration of the issue by the Special Committee would lead to a duplication of efforts. However, the Czech Republic wished to point out that it supported the views expressed during the general debate in the General Assembly that those provisions of the Charter which were obsolete and did not reflect contemporary realities should be amended. That was particularly true of the provisions of Articles 53 and 107 containing the so-called "enemy States" clauses. In that connection, there was a discrepancy between the universal character of the Organization and the current text of the Charter.

25. Mr. FULCI (Italy) welcomed the adoption by the Special Committee of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/AC.182/L.72/Rev.2), especially since recent international events had shown the need to strengthen such cooperation, while preserving sufficient flexibility to take specific situations into account.

26. The Special Committee, which had already made good progress in analysing the question of assistance to third States affected by the application of sanctions under Chapter VII of the Charter, should be able to find an adequate and equitable solution to that question.

27. His delegation welcomed with satisfaction two documents which were timely in the context of the United Nations Decade of International Law, namely, the proposed United Nations Model Rules for the Conciliation of Disputes between States (A/AC.182/L.75/Rev.1) submitted by Guatemala, and the proposal submitted

by Sierra Leone, entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" (A/48/398, annex).

28. With regard to the question of the role, composition and functioning of the Security Council, Italy had submitted to the Working Group established by General Assembly resolution 48/26 a proposal focused not only on the expansion of the Council's membership with a view to satisfying the requirements of equitable geographical distribution, but also on considering other aspects of the reform of that body, especially the relationship between the Security Council and the General Assembly, the need to consult troop-contributing countries which were not members of the Council, and transparency in the work of the Council.

29. His delegation supported the proposal by Poland that the so-called "enemy States" clauses contained in Articles 107 and 53 of the Charter, which had never been invoked and which had become totally obsolete, should be deleted.

30. Mrs. FLORES (Uruguay) said that the growing number of sanctions imposed under Chapter VII of the Charter and the growing economic interdependence of States only added greater weight to the proposals contained in working paper A/AC.182/L.79 concerning assistance to third States affected by the application of sanctions under Chapter VII. In view of the gaps in the practice followed to date, which was based on a case-by-case approach likely to lead to ambiguities and unequal treatment, it seemed appropriate to adopt uniform criteria in that regard and to establish a permanent mechanism. That would make it possible to respond rapidly to requests for assistance, taking into account the obligation which Members of the United Nations assumed under Article 49 of the Charter to afford "mutual assistance in carrying out the measures decided upon by the Security Council". While it had not been possible to reach a consensus on the above-mentioned working paper, her delegation hoped that the next session of the Special Committee would be marked by a spirit of flexibility and receptiveness conducive to the finalization of a compromise solution.

31. Her delegation attached special importance to the question of the enhancement of cooperation between the United Nations and regional arrangements or agencies at a time when regional conflicts were multiplying. Accordingly, it welcomed the adoption by the Special Committee of the draft declaration contained in working paper A/AC.182/L.72/Rev.2. In view of the important role assigned to the Special Committee, the increase in the number of Members of the Organization and the growing interest which States not members of the Special Committee showed in participating in its work, Uruguay believed that the Special Committee should be an open-ended body.

32. Mr. EPOTE (Cameroon) said that the documents prepared by the Special Committee were more like interpretations of the provisions of the Charter, while in the case of other issues that implied a review of the Charter, the Special Committee appeared to be at a standstill and incapable of playing its proper role, that of rethinking the Organization's structures and methods of action in order to enhance its efficiency and enable it better to respond to the ever-growing expectations of the international community.

33. His delegation regretted that the document submitted by Cuba on the enhancement of the Organization's role, which contained a number of proposals whose purpose was to democratize the Security Council, had not been given due attention. Reform of the Council should not be restricted merely to expanding its membership, but should also make it possible to revitalize the spirit that had inspired the decision to endow its members with considerable authority for the maintenance of international peace and security.

34. Regarding cooperation between the United Nations and regional arrangements or agencies, his delegation welcomed the adoption by the Special Committee of the draft Declaration contained in document A/AC.182/L.72/Rev.2 which, while emphasizing the primary responsibility of the Security Council for the maintenance of international peace and security, recognized the importance of regional arrangements and agencies in preventive diplomacy. His delegation had no qualms at supporting a project containing recommendations to which Cameroon subscribed in the regional sphere, as it had acceded to the conflict management and settlement machinery set up by the 29th summit of the Organization of African Unity and was a member of the Standing Advisory Committee on Security Questions in Central Africa, set up by the United Nations in 1992.

35. His delegation hoped that at its 1995 session the Special Committee would complete its work on the draft United Nations Model Rules for the Conciliation of Disputes between States, submitted by Guatemala (A/AC.182/L.75/Rev.1) and pursue its consideration of the proposal by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" (see A/48/398, annex).

36. His delegation hoped that the new report which the Special Committee had requested the Secretary-General to submit to it at its 1995 session would help to end the deadlock which, since 1992, had affected the Committee's consideration of the proposal contained in working paper A/AC.182/L.79 on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter.

37. Mrs. SAEKI (Japan) said that the major organs of the United Nations, such as the General Assembly and the Security Council, were engaged, with the active support of their members and of the Secretariat, in the enormous task of dealing with the great uncertainty of the post-cold-war world. While political will was absolutely essential, it was not enough: an effective and efficient mechanism for strengthening the structural capacity of the Organization to adapt to the reality of the changing world was also necessary. In that respect, the task entrusted to the Special Committee was crucial.

38. The end of the cold war had changed not only the United Nations but the role and functions of the regional organizations. With ideological dogmatism on the wane and regional and local instability increasing, regional arrangements could quickly produce realistic and flexible partners for the United Nations in the peaceful settlement of disputes, preventive diplomacy, peacemaking, peace-keeping and post-conflict peace-building, where the disputes or conflicts

involved delicate and complex local issues. There had already been several instances in which regional organizations had played a valuable role in resolving regional conflicts by assisting the Security Council.

39. Her delegation was confident that regional arrangements could play a positive role and welcomed the completion of work on the draft Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security. It especially appreciated the fact that the draft Declaration emphasized the importance of complementarity, asserted that primary responsibility in matters pertaining to the maintenance of peace and security rested with the Security Council and highlighted the need for flexibility and responsiveness to the specific situation and specific mandate of each regional arrangement.

40. The Special Committee had also considered the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. It was quite obvious, in the light of the increasing interdependence of the world, that the question of the special economic problems of third countries arising from the implementation of sanctions was becoming more and more serious. Japan was fully aware of those difficulties and had provided various forms of assistance to those countries. Her delegation believed that a number of points should be borne in mind when taking whatever measures were deemed necessary.

41. First of all, the measures implemented should be extremely flexible and formulated in response to specific conditions if they were to be carried out swiftly and effectively. It was of the utmost importance to affected countries that the approach taken by donors should be realistic, practical and well coordinated. Secondly, as most of the countries affected were developing countries and recipients of development assistance, it was desirable to utilize the experience and know-how accumulated by donors, international financial institutions and other development agencies. Only by drawing on their expertise and coordinating efforts with those institutions and agencies would it be possible to integrate relief measures properly into the overall development policies of the countries concerned and to achieve cost-effectiveness. Thirdly, careful consideration must be given to the appropriate role to be played by the United Nations, and especially the Security Council, in order to avoid duplication of work and adverse effects on the functioning of the Organization's bodies. In the view of her delegation, the most appropriate role for the United Nations to play was in organizing and conducting informal consultations.

42. For all those reasons, her delegation seriously doubted the effectiveness of an independent trust fund. It also believed that any consultative mechanism that was established should be flexible, and not permanent and institutionalized. It hoped that the Committee would continue to discuss the matter and make every effort to produce a more broadly acceptable formula.

43. Her delegation expressed its sincere appreciation for the work done by the Special Committee, and especially by the delegation of Guatemala, on the draft

United Nations Model Rules for the Conciliation of Disputes between States, a task that should soon be completed. As for the future agenda of the Special Committee, several delegations had made useful proposals. Her delegation stressed the need to address only those issues that fell within the purview of the Special Committee, and in such a manner as not to duplicate the work being done by other organs or groups within the Organization.

44. Mr. AYEWAH (Nigeria) observed that the end of the cold war had brought in its wake a new global configuration and an accompanying change in the United Nations political agenda. It had also brought an increase in the workload of the United Nations with regard to the maintenance of international peace and security. In order to discharge its functions effectively, the Organization would have to undergo reforms to adapt itself to current realities. The effectiveness of the Organization as an instrument of collective security in the decades ahead would depend on such reform. In that connection, the tone had already been set by the Secretary-General in "An Agenda for Peace". The gains must now be consolidated by the prompt restructuring of the organs of the United Nations, especially since the General Assembly itself had witnessed unprecedented growth as a result of global changes. The Security Council, the main organ responsible for the maintenance of international peace and security, must also respond to the dynamics of change. It must seek to be democratic, transparent and representative of the entire membership of the United Nations. The views of his delegation on the reform of the United Nations had already been expressed both in the Sixth Committee and before the plenary Assembly. The question should be considered by the Special Committee in coordination with the Ad Hoc Working Group created by the General Assembly for that purpose.

45. Concerning cooperation between the United Nations and regional organizations in the maintenance of international peace and security, he said that the United Nations must retain primary responsibility, but cooperation between the United Nations and the regional organizations should evolve in a symbiotic relationship wherein the United Nations would pool resources with regional organizations to respond to the multiplicity of conflicts around the globe. In that regard, his delegation applauded the Special Committee's remarkable achievement in adopting a draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies. It undoubtedly constituted an important contribution to the enhancement of the role of the United Nations in preventive diplomacy, conflict resolution, peacemaking and peace-building. His delegation fully supported the provisions of the draft declaration, which was premised on the Charter of the United Nations, particularly Chapter VII, and the mandates of the regional organizations. Indeed, some of its essential provisions were already being put into effect by the Organization of African Unity (OAU), which had set up a central mechanism for conflict prevention, resolution and management.

46. On the question of assistance to third States affected by the application of sanctions under chapter VII of the Charter of the United Nations, differences of opinion should not be allowed to obscure the importance of the issue and the need for it to be addressed in the Special Committee. It was time that workable solutions were found to prevent States from falling victim through no fault of

their own. In that regard, his delegation called on States which had difficulties with the initiative to reconsider their position so that a mechanism for assistance to third States affected by the imposition of sanctions, including a trust fund, could be established.

47. His delegation also applauded the progress made on the proposed United Nations Model Rules for the Conciliation of Disputes between States. It hoped that consideration of the text would be completed rapidly, and that the same would be true for the proposals submitted by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes". His delegation also welcomed the other suggestions that had been made concerning the Special Committee's future programme of work.

48. Mr. POSTICA (Romania) said that a new kind of cooperation was developing between the United Nations and the regional organizations. The latter was increasingly called upon to exercise peace-keeping functions at their level or to support or complement the actions taken by the United Nations in the area of collective security. In that regard, the Western European Union (WEU) was in the process of defining its role in peace-keeping operations, and the North Atlantic Treaty Organization (NATO) and the Conference on Security and Cooperation in Europe (CSCE) were taking similar steps. Against that background the articles prepared on the basis of the revised Russian working paper on the enhancement of cooperation between the United Nations and regional arrangements or agencies, which were reproduced in paragraph 89 of the report of the Special Committee (A/49/33), were especially relevant. Like other countries, Romania felt that the United Nations should be able to count on increased peace-keeping support from the regional organizations. Nevertheless, while applauding the completion of the work on the document, his delegation felt that there were some essential points that should not be overlooked.

49. First, any activities that regional organizations undertook or might undertake, the nature of which must be consistent with Chapter VIII of the Charter, should be subject to the oversight of the Security Council, in accordance with Article 54 of the Charter. Second, no enforcement action should be taken by the regional organizations without the prior authorization of the Security Council in accordance with Article 53, paragraph 1, of the Charter. Those two points must be reflected in any document that might be adopted, and he noted with satisfaction that the delegation of the Russian Federation, when revising its initial proposal, had taken into account some of the observations made on the subject.

50. The question of assistance to third States affected by the application of sanctions under Chapter VII of the Charter was an important one that had been dealt with in a working paper (A/AC.182/L.79) submitted by Uruguay and a group of countries members of the Special Committee, including Romania. In the Yugoslav crisis, Romania had strictly applied the sanctions imposed by the Security Council, and it had taken a similar position during the crisis in the Gulf, despite considerable detriment to its economy. It felt that it would be, to say the least, anomalous to institutionalize de facto a situation in which those who scrupulously observed international law were to suffer both

financially and materially as a result of the breach by others of principles and norms unanimously accepted and recognized by the international community. It was certainly encouraging that the international community and the Security Council had shown an awareness of the difficulties of the countries so affected, in keeping with the spirit of Article 50 of the Charter of the United Nations. However, in view of the growing number of sanctions measures adopted by the Security Council, and the effect they had had on third countries, the problem was one of the most important on the agenda of the Special Committee. Given that Article 50 of the Charter did not provide for the automatic rendering of assistance, it was imperative that, with a view to finding adequate solutions to assist the countries most seriously affected, systematic measures should be adopted.

51. As one of the sponsors of the above-mentioned document, his delegation was pleased that the informal consultations that had taken place between interested delegations at the 1993 session of the Special Committee had resulted in a consolidation of the two working papers previously submitted. Following the highly constructive debates held both in the Special Committee and in other forums, his delegation awaited with deep interest the report that the Secretary-General had been asked to prepare.

52. The question of improving the effectiveness of the Security Council in the maintenance of international peace and security assumed special importance in the light of the increase in the membership of the General Assembly and its implications for the representativeness of the Security Council. His delegation was in favour of enhancing the effectiveness and legitimacy of the Council, so that its decisions would be better implemented and less suspected of partiality. It supported enlarging the Council by the addition of new members, both permanent and non-permanent. In that regard, the desires of Germany and Japan to occupy permanent seats on the Council should be accommodated. It felt, however, that the developing countries should by no means find themselves marginalized as a result of the reform.

53. With regard to the proposed United Nations Model Rules for the Conciliation of Disputes between States as prepared by Guatemala, it was to be hoped that the Special Committee could make further progress in considering that document at its next session. Finally, with regard to the future work of the Committee, his delegation supported the proposal made by Poland in document A/C.6/49/L.3 relating to the elimination of the "enemy State" clauses in the Charter. Such clauses had become anachronistic, because the system of discrimination established in the Charter by Article 53 and Article 107 with regard to "enemy States" should lose its force by virtue of Article 1, paragraph 1, and Article 2, paragraphs 3 and 4.

54. Mr. ALARABI (Egypt) said that the successive rapid upheavals that had recently taken place in the world had altered the rules and parameters according to which international relations had been defined for over 50 years and major change was therefore required. International relations were governed by rules which should be stable and lasting if the climate was to be conducive to the maintenance of peace and security, to progress and to a guarantee of universal

well-being. Rapid changes in those rules would therefore risk destabilizing the international order for a time. On the other hand, if it was to be lasting yet not too rigid, the international order should reflect the state of the world which it was supposed to govern and should adapt to the development of the international situation. Such efforts to adapt should, of course, be reflected in the working methods of the United Nations, particularly those of the General Assembly, the body dealing with all issues of concern to the Organization, and those of the Security Council, which had the primary responsibility for maintaining international peace and security. In that regard, the Special Committee had an important part to play and could contribute decisively to reforms aimed at improving the functioning of the Organization; although a start had been made, the reforms remained partial and incomplete.

55. Cooperation should also be strengthened between the General Assembly and the Security Council. To that end, the Secretary-General should be authorized to inform the General Assembly of all the activities of the Security Council, while the Assembly should be authorized to exercise effective and direct control over those activities.

56. On the other hand, his delegation would be in favour of enlarging the Security Council in such a way as to take due account of the following criteria, some of which appeared in Article 23, paragraph 1, of the Charter: the member's contribution to the maintenance of international peace and security, respect for the purposes and principles of the Charter, participation in peace-keeping operations, and equitable geographical distribution.

57. There had been a large increase in regional conflicts, which tended to be prolonged indefinitely, despite representations by the Security Council, resolutions adopted by it in application of Chapter VII of the Charter and the deployment of international forces in the regions concerned. In such a situation, questions arose; in particular, it might be wondered whether confidence in the role that the United Nations could play in the settlement of regional conflicts had not been eroded. The restructuring of the Security Council should therefore include not only its expansion, but also an improvement of its working methods. In particular, efforts should be made to define the criteria whereby a clear distinction could be made between procedural matters and substantive issues, its provisional rules of procedure could be replaced by permanent rules and wider participation could be ensured in the informal consultations which the Council traditionally held before adopting resolutions concerning the dispatch of contingents to various parts of the world.

58. With regard to the right of veto, he recalled that in 1981 his delegation had, on behalf of non-aligned countries of the Special Committee, submitted a working paper (A/AC.182/WG.50), proposing an enhancement of the Security Council's capacity to carry out its responsibilities with regard to the maintenance of international peace and security. He suggested that the Committee should reconsider the issue at the current session.

59. The report of the Special Committee showed that significant, if limited, progress had been made and in particular that a consensus had emerged with

regard to the draft declaration on the enhancement of cooperation between the United Nations and regional organizations in the maintenance of international peace and security, submitted by the Russian Federation. In that regard his delegation considered that the proposals contained in the declaration were important, since they would tend to enhance the role of regional organizations and to link them more closely with the activities of the United Nations by involving them not only in the implementation of resolutions adopted by the United Nations, but also in the informal consultations preceding the adoption of such resolutions.

60. With regard to the peaceful settlement of disputes, he thanked the Guatemalan delegation for having revised the document relating to the United Nations Model Rules for the Conciliation of Disputes between States, submitted by it and approved by the Special Committee.

61. He noted that the Special Committee had still not managed to reach agreement on how to apply Article 50 of the Charter regarding the economic problems suffered by some States as a result of the implementation of Security Council resolutions, although more and more States had experienced such problems, and all the other articles of Chapter VII of the Charter had been implemented. His delegation had supported a considerable number of the solutions proposed to remedy the problem, which included the possibility of devising a structure within which the Security Council and States which might be affected by the application of sanctions could consult together before the imposition of such sanctions; compensation for countries affected by the application of sanctions; sharing the costs of the collective security system; and the creation of a trust fund to assist States facing particularly serious economic difficulties. The need to start applying Article 50 of the Charter had become urgent, since some States affected by the application of economic sanctions were in danger of no longer being able to meet their obligations.

62. The Special Committee had from the outset sought to improve the functioning of the United Nations and had examined proposals to that end submitted by Member States. None of those proposals, however, related to amendments to the Charter, even though in 1969 it had been planned to give the Committee broader terms of reference by entrusting it with the task of examining proposals relating to the review and amendment of the Charter. Those terms of reference were in conformity with the spirit of Article 109 of the Charter, which provided for the convening of a General Conference of the Members of the United Nations for the purpose of reviewing the Charter and stipulated that if such a conference had not been held before the tenth annual session of the General Assembly following the coming into force of the Charter a proposal to call such a conference should be placed on the agenda of that session. His delegation therefore considered it desirable, bearing in mind the numerous changes that had taken place in recent years, to review the Special Committee's terms of reference so as to authorize it to make amendments to the Charter (such as the abolition of the Trusteeship Council) which could take account of the development of the situation. Lastly, it also considered that the time had come to study the proposal by the Polish delegation that the term "enemy State", which was used in several parts of the Charter, should be deleted.

63. Mr. BANSAL (India) said that perhaps the most significant outcome of the work of the Special Committee at its twentieth session was the finalization of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security. If adopted by the General Assembly, that declaration would amplify the provisions of Chapter VIII of the United Nations Charter, since it represented a careful balance that ensured consistency with the principles of the Charter. It was essential that that aspect be borne in mind in the application of the declaration.

64. The Special Committee had also considered an item which was of particular importance to his delegation, mainly the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. It was to be hoped that the report analysing the proposals and suggestions made during the Special Committee's consideration of the issue at its twentieth session which the Secretary-General had been invited to submit would provide the basis for a meaningful exchange of views at the next session of the Special Committee. The objective was to operationalize Article 50 of the Charter through the early establishment of an appropriate mechanism under the auspices of the Security Council so that, following the imposition of sanctions, third countries that were affected would be automatically assured of receiving equitable assistance to mitigate the special economic problems arising out of such sanctions.

65. With regard to the proposed United Nations model rules for the conciliation of disputes between States, the informal summary of the discussion which the Secretariat intended to make available to delegations would provide a useful point of reference and would enable the discussion to proceed in an organized manner. In the view of his delegation, the proposed model rules deserved thorough and comprehensive consideration, keeping in mind the paramount principle of prior consent of the parties concerned at all stages of the conciliation proceedings. The model rules should also be flexible.

66. In recent years, the codification of international law had proceeded at a rapid pace. Furthermore, many sections of the international legal order were undergoing major transformation and new rules and practices were emerging. While that was an area of concern for all countries, it was of particular concern to non-aligned and developing countries. It was perhaps time for the Special Committee to take comprehensive stock of the ongoing activities for the codification of international law and changes in that law in different spheres. Such an exercise would be consistent with the Special Committee's mandate, which included the promotion of the rules of international law in relations between States.

67. Mr. MAXIMOV (Bulgaria) said that while the current changes in international relations offered new challenges and problems to the United Nations, they also provided an unprecedented opportunity for the United Nations to become an effective forum for settling the regional conflicts which posed a threat to international peace and security. At a time when a number of areas of activity of the United Nations, and, more specifically, the social and economic sector,

were undergoing a period of restructuring and revitalization, the Special Committee was becoming increasingly important.

68. An important achievement was the elaboration of the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security. Bulgaria supported that draft declaration, which should be adopted by consensus. It was a balanced document which outlined the framework of cooperation in accordance with the basic principles of the Charter and, more specifically, Chapter VIII. The activities of the United Nations and regional organizations should complement each other on the basis of a flexible mechanism of cooperation which, on the one hand, would help avoid unnecessary duplication and, on the other, would take into account the variety and independence of the regional organizations. At the same time, along with the legal aspects of the cooperation between the United Nations and the regional organizations, some practical issues should also be addressed. In that connection, the proposal put forward by some delegations for the issue of a handbook and for the organization of a seminar was very useful.

69. Bulgaria attached particular importance to the Special Committee's work on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter because it was suffering serious economic losses as a result of the strict implementation of the sanctions against Iraq, the Libyan Arab Jamahiriya and, especially, the Federal Republic of Yugoslavia (Serbia and Montenegro). Measured against the economic potential of Bulgaria, the losses were enormous. Apart from the economic implications of the sanctions, their negative impact had had a devastating impact on the political and social stability of Bulgaria. The burden of the sanctions exceeded the reasonable point of economic and social tolerance in Bulgaria, given the lack of adequate financial, economic and trade assistance. The international community must speed up the process of elaborating a mechanism for assisting countries confronted with special economic problems as a result of sanctions. The discussion held in the Special Committee had shown that most countries shared that view. The merging of the two working documents on the issue into a single consolidated draft (A/AC.182/L.79), of which Bulgaria was a sponsor, had been a positive development, and although the document had not gained universal approval, broad agreement had emerged on a number of aspects and ideas contained in it. The search for pragmatic and viable solutions should continue in order to reach a consensus on each specific measure for assisting the affected countries.

70. Bulgaria believed that the countries which carried the burden of the implementation of sanctions should be able to rely on specific resources to ease the negative impact on their economies. In that connection, the participation of the international financial institutions in providing assistance was of considerable importance. The establishment of a special facility or a more active utilization of the Compensatory and Contingency Financing Facility of IMF was a chance for general agreement to be reached in that respect. Various other proposals also deserved careful attention. It could be useful, in particular,

to hold consultations with donor States, promote exports and foreign investment and provide trade preferences on a bilateral basis.

71. Bulgaria was one of the countries which believed that the Security Council should hold preliminary consultations with the countries which were likely to be most seriously affected by the implementation of sanctions. That would help the Security Council gain a fuller understanding of the possible negative impact which such sanctions could have for third countries. It was gratifying, in that respect, that the proposal that the General Assembly should invite the Secretary-General to submit to the Special Committee, at its 1995 session, a report on the implementation of Article 50 of the United Nations Charter, had been accepted. At that time, the Secretary-General should pay special attention to the ways and means of the practical implementation of each proposal. Furthermore, in view of the growing number of countries affected by sanctions, it was no longer possible to search for solutions on a case-by-case basis. Success in addressing the issue would determine the extent to which the United Nations would be effective in maintaining international peace and security. The Special Committee should therefore consider that issue on a priority basis at its session in 1995.

72. As to the United Nations Model Rules for the Conciliation of Disputes between States, it should be possible for the Special Committee to adopt them at its next session; that would represent yet another successful contribution to the development of the existing system of the peaceful settlement of disputes. Bulgaria also supported the proposal made by the Polish delegation for the deletion from the Charter of the clause referring to "enemy States", which was no longer of any relevance.

73. Mr. YOUSIF (Sudan) said that the working paper on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/49/33, chap. III, sect. A) was of particular importance in view of the frequency with which the Security Council imposed sanctions. Under Article 49 of the Charter, all Member States of the Organization were under the obligation to join in affording mutual assistance to third States affected by the application of sanctions. His delegation urged the Special Committee to consider further the proposals it had already made; even if such proposals had not enjoyed the expected consensus, they were in line with the consultations provided for under Article 50 of the Charter. The Security Council should discontinue its practice of considering the situation of third States on a case-by-case basis; it must establish a permanent mechanism to provide an adequate response to requests for assistance made under Article 50. His delegation proposed, inter alia, recommending the granting by international and private financial institutions of special attention to requests made by third States affected by sanctions; promoting the exports of such countries and removing all obstacles that might hamper them; urging States which had the wherewithal to provide access to their external aid programmes to third countries affected by sanctions; granting bilateral economic and financial facilities to such countries; cancelling the debt and debt servicing in order to alleviate the effects of the application of sanctions; and finally, requesting

the Secretary-General to submit an annual report reviewing the implementation of the above-mentioned mechanism.

74. The proposals of Guatemala and Sierra Leone (A/49/33, Chap. IV, sect. A and B) filled a wide gap in the area of the peaceful settlement of disputes between States. His delegation hoped that the Special Committee would continue its consideration of the Guatemalan proposal at its 1995 session. As for Sierra Leone's proposal, it provided a substantial contribution to the United Nations Decade of International Law. He hoped that the Special Committee would give the proposal the attention it deserved.

75. Finally, his delegation welcomed the draft resolution submitted by Poland (A/C.6/49/L.3), with a view to the deletion of the so-called "enemy State" clauses of the Charter. Such clauses were now obsolete and the Special Committee should pave the way for the convening, under Article 109 of the Charter, of a conference to consider the question of their deletion. His delegation hoped that the deletion of those clauses would be a first step, to be followed by the amendment of other provisions of the Charter that no longer reflected current realities.

76. Mr. BAYAR (Turkey), referring to the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, chap. III, sect. B), said that despite the increasing importance of regional arrangements and organizations, the United Nations continued to play a crucial role in the maintenance of international peace and security. Its activities and those of regional arrangements and organizations should be mutually reinforcing and complementary. The Charter was abundantly clear on that point. Article 24, in particular, gave the Security Council, acting on behalf of the collective membership, the principal responsibility for the maintenance of international peace and security. It was therefore imperative not to envisage any form of devolution of authority from the Security Council to those regional organizations: only the United Nations could provide legitimacy to the action of regional organizations as far as the maintenance of peace and security was concerned, and such action should in no way prejudice the competence of the Security Council under the relevant articles of the Charter. In that respect, his delegation was pleased that the text of the declaration was fully consistent with the spirit and letter of the Charter, in particular Chapter VIII. The adoption by the General Assembly of the declaration should not be viewed as an end in itself but rather as an initial step in the search for a new collective security mechanism to be built on mutually reinforcing institutions in which all elements would have a role to play.

77. Turning to the question of assistance to third States adversely affected by the application of sanctions under Chapter VIII of the Charter (A/49/33, sect. A), he regretted that the Special Committee had not achieved any progress in that regard. Sanctions remained an important weapon at the disposal of the Security Council in the effective implementation of international law; however, the growing dissatisfaction of third countries adversely affected by their implementation must be taken into account, as without their cooperation those

sanctions would be ineffective. The efforts of the Council thus far to deal with the problems of the third States so affected had been very disappointing. In that context, his delegation was looking forward to receiving the Secretary-General's report requested by the Special Committee on that issue and hoped that it would adequately incorporate the proposals and suggestions, including the establishment of a special trust fund, made at the previous session of the Special Committee and would offer new perspectives which would help to narrow the differences in opinion among members on how best to address the issue of alleviating the economic burdens on third countries caused by sanctions.

78. The delegation of Guatemala should be commended for the document it had submitted entitled "United Nations Model Rules for the Conciliation of Disputes between States" (A/49/33, chap. IV, sect. A) and for the flexibility it had shown during the discussion on its proposal. Turkey attached the highest importance to securing the consent of all parties at every stage of the peaceful settlement of a dispute.

79. Ms. GOLAN (Israel) said that even if the Special Committee's achievements in the course of its 19 years of existence had been rather modest, the Committee was useful in that States could make proposals to it with a view to improving the functioning of the Organization.

80. With regard to the draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, chap. III, sect. B), her delegation wished once again to emphasize the importance of respecting the principles of universality and equality in regional arrangements or agencies; otherwise, the effectiveness of cooperation between the United Nations and those regional arrangements or agencies would be diminished. The draft declaration should be amended to specifically reflect those principles which had not always been fully implemented within the United Nations system as far as Israel was concerned. Elections within the United Nations system were generally based on geographical distribution in accordance with quotas allocated to each regional group. For many years, Israel had been prevented from being a member of a regional group, and for that reason had been unable to enjoy its full rights and assume all its duties as a Member of the United Nations. Her delegation therefore reiterated its proposal that the Special Committee should consider giving substance to the principles of the sovereign equality of States and the universality of the United Nations. In that respect, it should be noted that in "An Agenda for Peace", the Secretary-General had also referred to those principles by advocating democracy within the United Nations family and the need for the fullest participation and engagement of all States, large and small, in the work of the Organization.

81. Concerning the proposed United Nations Model Rules for the Conciliation of Disputes between States (A/49/33, para. 107), the new instrument, like other existing instruments for the peaceful settlement of disputes, should set forth non-restrictive rules which required the mutual consent of the States at every stage of the settlement of the dispute. It would also be preferable for the rules to leave it to the parties to choose the body to which they turned for

assistance. With respect to the text resulting from the first reading, her delegation suggested that the words in brackets in article 2 should be deleted and that the words "at the request of the parties concerned" should be added to the last sentence of article 7. Concerning article 14, paragraph 2, the specific agreements of the parties should be sought with regard to the use of expert advisers by the commission. As for article 23, in her delegation's view, it was up to the parties to decide what to do with and where to keep the documents of the proceedings.

The meeting rose at 6.10 p.m.